

DEPT. OF
LICENSES AND
CONSUMER
AFFAIRS

CF # 292977

Your
Seattle
Department of Licenses and Consumer Affairs



Andrew J. Lofton, Director
Charles Royce, Mayor

August 27, 1987

M E M O R A N D U M

TO: The Honorable Norward Brooks
Seattle City Clerk

FROM: Andrew J. Lofton, Director
Department of Licenses and Consumer Affairs

SUBJECT: FILING OF REVISED RULES AND REGULATIONS TO IMPLEMENT
SMC, CHAPTER 5.44

Attached is a true and exact copy of the revised Rules and Regulations implementing the Seattle Municipal Code, Chapter 5.44 (Business and Occupation Tax), to be filed with your office. These rules are effective September 1, 1987.

A public hearing was held by our Department on August 26, 1987. We have enclosed the "Affidavit of Publication" and public notice.

AJL:dhk
Attachments

70827.3

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C-157

City of Seattle

ADMINISTRATIVE RULING NOTICE

Department of Licenses and Consumer Affairs

Notice of Proposed Rule Making

The Director of Licenses & Consumer Affairs, acting under the authority of SMC 5.44.240 and 5.44.205, proposes to adopt new rules for implementing the Seattle Business Tax ordinance (Seattle Municipal Code (SMC) Chapter 5.44). The proposed rules, when promulgated, would revise the existing rules implementing the Seattle Business Tax Ordinance by amending Rule 1(a) which adopts all or part of various Business and Occupation tax rules of the State of Washington Department of Revenue, in order to reflect revisions of WAC Chapter 458-20.

The public may inspect copies of the proposed rules at the Department of Licenses and Consumer Affairs, Room 102, Seattle Municipal Building, 600 Fourth Avenue, Seattle, Washington 98104. In addition, the Director will mail a copy of the proposed changes to anyone who requests a copy. If you wish a copy, please call 684-8484 or write to the Department at the address listed below.

The Department has scheduled a public hearing on the proposed rules for 5:30 p. m. to 6:30 p. m. August 26, 1987, in the Department of Licenses and Consumer Affairs Conference Room, 1st floor of the Seattle Municipal Building, Room 102, 600 Fourth Avenue, Seattle, Washington. All interested persons are invited to present data, views, or arguments in regard to the proposed rules orally at the hearing or in writing at or before the hearing. Written comments should be mailed or delivered to the Director of Licenses & Consumer Affairs, Attn.: Dave Heleniak, 102 Seattle Municipal Building, Seattle, Washington 98104.

Date of publication in the Seattle Daily Journal of Commerce, August 12, 1987.
(C-157)

Affidavit of Publication

STATE OF WASHINGTON KING COUNTY--SS.

The undersigned, on oath states that he is an authorized representative of The Daily Journal of Commerce, a daily newspaper, which newspaper is a legal newspaper of general circulation and it is now and has been for more than six months prior to the date of publication hereinafter referred to, published in the English language continuously as a daily newspaper in Seattle, King County, Washington, and it is now and during all of said time was printed in an office maintained at the aforesaid place of publication of this newspaper. The Daily Journal of Commerce was on the 12th day of June, 1941, approved as a legal newspaper by the Superior Court of King County.

The notice in the exact form annexed, was published in regular issues of The Daily Journal of Commerce, which was regularly distributed to its subscribers during the below

stated period. The annexed notice, a
Notice of Proposed Rule Making

was published on
August 12, 1987

Subscribed and sworn to before me on

August 12, 1987

Notary Public for the State of Washington,
residing in Seattle.

RULES IMPLEMENTING THE
SEATTLE BUSINESS TAX ORDINANCE

Pursuant to the Seattle Municipal Code (SMC), § 5.44.240, the Director of Licenses and Consumer Affairs, acting for and on behalf of The City of Seattle, hereby adopts the following Business Tax Rules to implement the SMC, Chapter 5.44, and to assist the taxpayer in filing returns and in determining the amount of tax due. Rule 1 adopts designated sections of the rules and regulations of the State of Washington, Department of Revenue (Washington Administrative Code, Chapter 458-20) with the objective of providing as much similarity in the assessment and payment of the City Business Tax and the State Business and Occupation tax imposed by RCW Chapter 81 as practical while recognizing the differences between the two taxing jurisdictions and their legislation. Rules 2 through 6 address engaging in business within the City, issues pertaining to interstate and foreign commerce, and apportionment of gross income where the taxpayer maintains a place of business within the City and also elsewhere. With every rule the singular number includes the plural. In the event of a conflict between a rule and SMC, Chapter 5.44, the Code prevails.

Rule 1. State Rules Adopted. The portion of each of the following Excise Tax Rules of the State of Washington, Department of Revenue, which implements the State Business and Occupation Tax imposed by RCW Chapter 82.04, as published in Washington Administrative Code, Chapter 458-20, is hereby adopted, as now or hereafter amended, as a rule implementing the Seattle Business Tax imposed by SMC, Chapter 5.44, subject to the substitution of any term listed below for the word or phrase indicated in the text of the State rule and the making of any particular change noted following the number of the rule adopted. Unless otherwise noted, the portion of a rule adopted appears as an introductory paragraph in the Department of Revenue rule and as the paragraph following the caption "Business and Occupation Tax"; it excludes paragraphs under the caption "Retail Sales Tax", "Conveyance Tax", "Public Utility Tax" or "Use Tax". A notation of "entire rule" beside the rule's number means the complete text is adopted.

(a) Substitution of Terms for Seattle Business Tax Purposes--

- (1) "Department of Revenue" shall be "Department of Licenses and Consumer Affairs"
- (2) "Retailing" shall be "retailing or wholesaling". Since SMC, § 5.44.030 (C) taxes both within one classification, no distinction need be made under WAC-458-20-129, 137 or 140;
- (3) "Revenue Act of 1935" shall be SMC, Chapter 5.44 (e.g. WAC 458-20-169); and
- (4) "Wholesaling" shall be "retailing or wholesaling". Since SMC, § 5.44.030 (c) taxes both within one classification, no distinction need be made under WAC-458-20-129, 137 or 140;

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(b) Rules Adopted

- WAC-458-20-105 Substitute "Business License" for "Certificate of Registration and collect and remit the retail sales tax" under the Subsection entitled "Persons Engaging in Business" second paragraph.
- WAC-458-20-106
- WAC-458-20-107 Delete from the title the words "Advertised prices including sales tax --". Except for the Sections "Warranties, Maintenance Agreements, and Service Contracts" and "Maintenance Agreements" all others are deleted. Under Section "Warranties, Maintenance Agreements, and Service Contracts", fourth paragraph, third sentence, delete the words "and retail sales tax". Delete from the fifth paragraph, second sentence the words "and are not subject to retail sales tax". Under Section "Maintenance Agreements" first and second paragraphs, delete the words "and retail sales tax".
- WAC-458-20-108 Entire Rule
- WAC-458-20-109
- WAC-458-20-110 Substitute "may not" for "may" in the fourth paragraph, first sentence. Delete last sentence from the fourth paragraph.
- WAC-458-20-111 Entire Rule
- WAC-458-20-112 Entire Rule
- WAC-458-20-114 Under Subsection "Bona Fide Initiation Fees and Dues", third paragraph, delete second and third sentence. Under Subsection "Definitions", eighth paragraph, second sentence, delete the words "and/or sales". Under Subsection "Tax Classifications", fifth and seventh sentence, delete the word "excise". Delete the sixth sentence. Under Subsection "Tuition Fees", delete the last sentence of the last paragraph.
- WAC-458-20-118 Entire Rule
- WAC-458-20-119
- WAC-458-20-122 Under Definition Section, fifth paragraph, first sentence, add the words "or retail" after the word "wholesale". Amend "Business and Occupation Tax" Section, first paragraph, second sentence list of commodities to read as follows: "wheat, oats, dry peas, corn, barley or rye." (Material stricken is deleted from the State Rule and material underlined is added.) Sales of feed, seed, fertilizer, and spray materials to farmers as defined herein are taxable under the wholesaling classification: Provided, That wholesale sales of certain unprocessed grains may be taxable at a lower rate under the wholesaling grain classification (See WAC 458-20-161), even though the sale of such unprocessed grains is to a farmer for use as feed.
- WAC-458-20-123

- WAC-458-20-124 Delete paragraphs two, three, four, five and six. Delete from "Gratuities" Subsection, second sentence, the words "both" and "and the retail sales tax". Add "Business and Occupation Tax" section to read as follows: Taxable under the Retailing or Wholesaling classification upon the gross proceeds of sales.
- WAC-458-20-128 Entire Rule
- WAC-458-20-129 Substitute "gross sales of" for "the amount of State and Federal gallonage tax on" in the last sentence of the "Retailing" Subsection.
- WAC-458-20-130 Delete "-Retail Sales Tax" from the "Business and Occupation Tax" Section title. Delete from the first paragraph, first sentence the words "or the retail sales tax". Delete from the second paragraph the words "or the retail sales tax". Delete from the third paragraph the words "or the retail sales tax".
- WAC-458-20-132
- WAC-458-20-133
- WAC-458-20-134
- WAC-458-20-135 Delete reference to "(See also WAC 458-20-193.)" under Subsection entitled "Extracting - Interstate or Foreign Sales". Under Subsection entitled "Extracting for Others" substitute "Service" for "Extracting For Hire" and "Motor Transportation" and delete the words "of the public utility tax" and reference to "(See WAC 458-20-180.)" Delete Section "Forest Excise Tax".
- WAC-458-20-136 Delete reference to "(See also WAC 458-20-193.)" under Subsection entitled Manufacturing - Interstate or Foreign Sales". Delete Subsection entitled "Manufacturing Special Classifications". Substitute "Manufacturing" for "Processing for Hire" under the Subsection entitled "Processing For Hire".
- WAC-458-20-137
- WAC-458-20-138
- WAC-458-20-139 Delete reference to "(See WAC 458-20-102.)"
- WAC-458-20-140 Substitute "Manufacturing" for "Processing for Hire" under the Subsection entitled "Processing For Hire."
- WAC-458-20-141 Delete from "Business and Occupation Tax" Section, second paragraph, last sentence and fifth paragraph, last sentence.
- WAC-458-20-143
- WAC-458-20-144 Delete "Note" and its sentence. Add second paragraph under the Section "Business and Occupation Tax" to read as follows: "Where stamped envelopes or government postals are purchased and printed for customers or where stamps are provided, the amount of the postage may be deducted from the total charge to the customer in determining the selling price for business tax." Add Subsection: "Commissions and Discounts" from the "Retail Sales Tax" Section.

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WAC-458-20-146 Amend the second sentence to read as follows:
 "Accordingly, the gross income or gross sales of such institutions shall become subject to the business and occupation tax according to the following general principles and Chapter 458-20 WAC adopted by the Department of Revenue pursuant to RCW 82.14A.020".
 (Emphasis shows addition) Amend third paragraph, second sentence of Subsection "Service and Other Activities" to read as follows: "Deductible gross income should be included in the gross amount, then deducted and explained on the form." Add Subsection: "Branch locations, Division of Income " as follows: "Financial institutions having more than one place of business shall divide total taxable gross income so as to attribute taxable income to each location in the ratio of total interest earned (whether taxable or not) on loans originated at each location during the period covered by the tax return. The location at which a loan is originated is the place of business of the financial institution at which the customer deals with the financial institution to obtain the loan. Financial institutions having time or demand deposits may compute the ratio of total deposits at each location, provided the financial institution can demonstrate that the taxable income so computed will not differ by more than \$10,000 in any one calendar year as to any one business location." Delete under "Retailing" Subsection, first paragraph, the second and third sentences. Second paragraph, first sentence, delete "and to the retail sales tax". Also, delete second sentence of "Note". Delete "Resale Certificates" Subsection.

WAC-458-20-147
 WAC-458-20-148
 WAC-458-20-149
 WAC-458-20-150
 WAC-458-20-151
 WAC-458-20-152
 WAC-458-20-153

Delete the words "subject to the retail tax as outlined below" from Subsection "Retailing", first paragraph, first sentence.

WAC-458-20-154 Delete under the "Retailing" Subsection the words "taxable under the retail sales tax" and the word "also".

WAC-458-20-155 Delete from the first sentence the words "and retail sales or use taxes". Under Section "Distinction Between Sales and Services", first paragraph, first sentence delete the words "sales tax or use". Delete from the second sentence the words ", and the retail sales tax or use tax is not applicable to such charges". Delete from the fourth sentence the words "and not subject to retail sales tax or use tax". Delete from the second paragraph, last sentence the words "subject to retail sales tax or use tax". Under Section "Interstate Sales and Services",

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- WAC-458-20-155 first paragraph, delete the fourth and fifth sentence.
(cont'd) Delete from the sixth sentence the words "and retail sales tax". Amend second paragraph to read as follows: "Providers of information or computer services in interstate commerce are taxable under the service classification."
- WAC-458-20-157
- WAC-458-20-158
- WAC-458-20-159 Entire Rule
- WAC-458-20-161 With the list of commodities amended to read "wheat, oats, ~~((dry peas))~~ corn, barley ~~((dry beans, lentils))~~ ~~((triticale))~~ and rye." (Material stricken is deleted from the State Rule and material underlined is added.) Amend Subsection "Wheat, Oats, Corn, Barley and Rye" to read as follows: "Persons buying wheat, oats, corn, barley and rye, and selling the same at wholesale as such and not as a manufactured or processed product thereof, are taxable under the wholesaling grain classification upon their gross proceeds of sales."
- WAC-458-20-162 Entire Rule
- WAC-458-20-164 Delete reference to "agent" and the Subsection entitled "Special Classification of Certain Managing General Agents."
- WAC-458-20-165 Delete under the Subsection "Retailing" the words "which are subject to the retail sales tax as hereinafter provided."
- WAC-458-20-166 Delete from the fifth paragraph the words "to the retail sales tax and". Delete paragraph seven. Delete last sentence of Subsection "Retailing".
- WAC-458-20-167 Delete under "Business and Occupation Tax" Section, third paragraph, last sentence.
- WAC-458-20-168 ~~Paragraph one, second sentence, delete the words "other than prescription drugs".~~ Under Subsection "Deductions (b)", ~~Paragraph four, second first sentence,~~ change "religious or charitable organizations" to "a religious organization". Delete the words "(See RCW 82.04.4289.)"
- WAC-458-20-169 Delete references to "collect the retail sales tax upon such sales, nor" from the second paragraph, first sentence. Second sentence, delete "collect the retail sales tax nor". Delete the third paragraph. Amend the third fourth paragraph to read as follows: "In every case where such organizations conduct business activities other than as outlined above, the business and occupation tax is fully applicable to the gross sales made".
- WAC-458-20-170 Under Subsection "Speculative Builders", second paragraph, delete last sentence. Third paragraph, last sentence, delete "and shall also collect sales tax from the buyer on such allocable part of the sales price." Delete fourth paragraph.

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- WAC-458-20-17001 Delete from the first paragraph, first sentence, the word "Special". Under the first paragraph, first sentence, substitute the words "applies to" for the words "applications and special sales/use tax applications pertain for". Delete the second sentence. Delete from the third sentence the word "other" and reference to "See WAC 458-20-190". Under the "Business and Occupation Tax" Section, first paragraph, first sentence, substitute the words "retail or wholesale" for the words "government contracting".
- WAC-458-20-171 "Business and Occupation Tax" Section, delete from first sentence the words "under the Public Road Construction classification."
- WAC-458-20-172 Add a Subsection "Repairs for Out-of-State Persons" as follows: "Persons residing outside this State may ship into this State articles of tangible personal property for the purpose of having the same repaired, cleaned or otherwise altered, thereafter returned to them. No deduction is allowed as an interstate sale under the business and occupation tax."
- WAC-458-20-173
- WAC-458-20-174 Delete "Public Utility Tax" from the "Business and Occupation Tax" Section. Delete reference to "WAC 458-20-179" and "WAC 458-20-193". Delete fifth sentence of third paragraph. Delete from the fourth paragraph the words "such as this".
- WAC-458-20-175
- WAC-458-20-176 Delete reference to WAC 458-20-193.
- WAC-458-20-177 Delete last paragraph of "Business and Occupation Tax" Section.
- WAC-458-20-181 Delete under the "Retailing" Subsection the words "taxable under the retail sales tax".
- WAC-458-20-182 Under ~~Delete first paragraph of the "Business and Occupation Tax" Section,~~ delete reference to "(See RCW 82.04.280.)", "(See RCW 82.04.050 (3) (d).)" and "(See RCW 82.04.290.)". Under Subsection (a) substitute the word "service" for "warehousing". Amend second paragraph to read as follows: "Persons engaged in the business of operating any type of warehouse and the renting of cold storage lockers are taxable under the Service and Other Activities classification upon the gross income received from such business." Delete Subsection (d).
- WAC-458-20-183
- WAC-458-20-187 Under the "Business and Occupation Tax" Section, first and third paragraph, add the words "or Wholesaling" after the word "Retailing". Delete from the third paragraph ~~two~~ under "Amusement Devices" Subsection the words "and are responsible for collecting and reporting to the Department the retail sales tax measured by the gross receipts therefrom". Delete the sixth paragraph. ~~Adopt only the first and second paragraph of the Subsection "Service Machines" and Add the following portion of the last paragraph,~~ "Sales of vending machines, service machines and amusement devices to persons who will operate the same are sales at retail and taxable under the Retailing classification on the gross receipts therefrom".

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- WAC-458-20-18801 Delete from the first paragraph sentence, Subsection "Deductions (a)-", the words "or charitable" and the words "or RCW 82.04.4289 (See" and delete the parentheses")" after WAC 458.20-168.
- WAC-458-20-189 Delete from the present title the words "And By". With the exception of the first paragraph of the "Business and Occupation Tax" Section, all others are deleted.
- WAC-458-20-190
- WAC-458-20-191
- WAC-458-20-195 Delete the words "the retail sales tax and the public utility tax" from the first sentence under Subsection "A. Deductibility, Generally".
- WAC-458-20-196
- WAC-458-20-197 Delete second and third sentence of first paragraph.
- WAC-458-20-198
- WAC-458-20-199 Delete from first paragraph, first sentence the words "and the retail sales tax.". Delete second sentence, from first paragraph. Under Subsection "METHOD TWO, ACCRUAL BASIS" delete the words "and the retail sales tax". Under Subsection METHOD THREE, CASH RECEIPTS, ACCOUNTS RECEIVABLE ADJUSTMENTS" amend second paragraph, fifth sentence to read as follows: "Such receipts should be included (Gross Amount) and then listed as a deduction on the tax return and explained on the return as "cash received upon accounts receivable reported as of December 31,19--". Delete third paragraph.
- WAC-458-20-202 Entire Rule
- WAC-458-20-203 Entire Rule
- WAC-458-20-204
- WAC-458-20-205 Entire Rule
- WAC-458-20-207 Entire Rule
- WAC-458-20-208 Entire Rule
- WAC-458-20-210 Delete second paragraph under the heading. Under Section "Business and Occupation Tax", first sentence, add the words "or retailing" after the word wholesaling and delete the word "wholesale". Delete second paragraph.
- WAC-458-20-211 Delete last sentence from first paragraph. Delete from the second paragraph the words "(or public utility tax)". Change last sentence to read as follows: "Thus, the charge made to a construction contractor for equipment with operator used in the construction of a building would be taxable under wholesaling."
- WAC-458-20-212 Entire Rule
- WAC-458-20-213 Second paragraph, change "Certificate of Registration" to "Business license" and "Certificate" to "license".
- WAC-458-20-214 Delete from first paragraph, first sentence, the words "and the retail sales tax". Add at end of paragraph, under the Subsection "Cold Storage Warehousing" the words "(See WAC 458-20-182.)"
- WAC-458-20-216 First paragraph, change "ten" to "fifteen". Delete remainder of paragraph after the first sentence. Amend second paragraph to read as follows: "A successor shall not be liable for any tax due from the person from whom he has acquired a business or stock of goods."

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- WAC-458-20-218 Under the Section "Business and Occupation Tax", third paragraph, delete the following: "(General principles covering sales or services to persons in other States are contained in WAC 458-20-193.)"
- WAC-458-20-219 Add the word "the" after the word "under". Delete the words "public utility tax, or retail sales tax."
- WAC-458-20-220 Under Section "Business and Occupation Tax", add second paragraph to read as follows: "Persons engaged in the business of processing for hire or manufacturing signs and who ship the articles produced to point outside the state are taxable under the manufacturing classification and are not subject to tax under the Retailing or Wholesaling classifications (See WAC-458-20-136)."
- WAC-458-20-222
- WAC-458-20-223
- WAC-458-20-224 Delete from the second paragraph, second sentence, the words "~~sewer services other than collection,~~" and the words "~~who are not subject to public utility tax other specific statutory tax classifications,~~." Also in the second paragraph, after the word ~~insurance~~ delete the words "~~agents and~~". Delete second paragraph under the "Business and Occupation Tax" Section.
- WAC-458-20-225
- WAC-458-20-226
- WAC-458-20-228 Delete from the title the words "INVENTORY TAX CREDIT APPLICATIONS, STAY OF COLLECTION". (Material stricken from the title is stricken from the Rule.) Delete first paragraph. Delete from second paragraph, first sentence the words "chapter 82.08 RCW (retail sales tax), chapter 82.12 RCW (use tax), chapter 82.14 RCW (local sales and use tax), chapter 82.16 RCW (public utility tax), and chapter 82.26 RCW (tobacco products tax)". Also, delete the words "of revenue" from the first sentence. Delete from second sentence the word "monthly". Delete from third sentence the words "of revenue" and "approximately ten days prior to the due date of the tax". Delete fourth paragraph. Delete fifth paragraph. Delete sixth paragraph first sentence. Amend second sentence to read as follows: "If any tax return, or payment of any tax, is not received by the department by the twenty-fifth day of the month in which the return and or tax becomes due, there shall be assessed a penalty of five percent of the amount due with a minimum penalty of Five Dollars (\$5.00); and if the return and or tax is not received by the fifteenth day of the month next succeeding the month in which the due date falls, there shall be assessed a total penalty of ten percent of the amount due with a minimum penalty of Fifteen Dollars (\$15.00); and if the return and or tax is not received by the last day of the month next succeeding the month in which the due date falls, there shall be assessed a total penalty of twenty percent of the amount due with a minimum penalty of Twenty-Five Dollars (\$25.00). Eighth paragraph, first

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- WAC-458-20-228 (Cont'd) sentence change "two" to "five". Amend second sentence to read as follows: "The aggregate of penalties for failure to file a return, or late payment of any tax, may not exceed twenty percent of the tax due, or twenty-five dollars, whichever is greater. Paragraph eleven, item 6 change "Olympia or district office" to department". Paragraph twelve, second sentence change 20 days to 10 days. Delete thirteenth paragraph. Under Subsection "Extensions", first paragraph, delete second and third sentence. Delete second paragraph.
- WAC-458-20-233 Entire Rule
- WAC-458-20-235 Delete first sentence of the first paragraph. Amend the first sentence of the fourth paragraph to read as follows: "The business and occupation tax due on conditional and installment sales must be wholly reported during the period in which the sale is made (See WAC-458-20-198)." Delete the second sentence. Delete the first sentence of the fifth paragraph. In the second sentence, delete the words "collect the retail sales tax and". Delete from sixth paragraph the words "collect retail sales tax and". Entire Rule.
- WAC-458-20-236 Delete last paragraph under Subsection "Method of Allocation" and delete the "Retail Sales Tax" and "Use Tax" Subsections.
- WAC-458-20-241 Amend title to read "TELEPHONE BUSINESS, COMPETITIVE TELEPHONE SERVICE". Delete from the first paragraph, first sentence, the words "retail sales". Delete from In the second paragraph, first sentence, the words "the telephone business or" and add the word "competitive" before the words "telephone service". Delete from the second paragraph the last sentence. Under the Section "Definitions", delete the first, fourth, and fifth, sixth and seventh paragraphs. Amend the second paragraph to read as follows: "The term "telephone business" means the business of providing access to a local telephone network, local telephone network switching service, toll service, coin telephone service, telephonic, video, data, or similar communication, or transmission for hire, via a local telephone network, toll line or channel, cable, microwave, or similar communication or transmission system. The term includes cooperative or farmer line telephone companies or associations operating exchanges. "Telephone business" does not include the provision providing of competitive telephone service, nor the providing of broadcast services by radio or television stations. For taxability of telephone business and cable television service refer to Seattle Municipal Code, Chapter 5.48. In the third paragraph, after the words "or service" add the words ", other than toll service,". Delete from the seventh paragraph the words "or rendering telephone service". Delete from the seventh paragraph the words "or rendering telephone service". Under the

WAC-458-20-245 Subsection "RETAILING AND WHOLESALING", first paragraph,
(Cont'd) first and second sentence, add the word "competitive"
before the word "telephone". In the third sentence,
delete the words "and network telephone service, as
described more fully below". Delete the second, third,
fourth and fifth paragraphs. Add a new paragraph to read
as follows:

"Gross income derived from charges to another telecom-
munications company, as defined in RCW 80.04.010, for
connecting fees, switching charges, or carrier access
charges relating to intrastate toll services is taxable
under the Wholesaling classification". Under the Sub-
section "SERVICE", amend the first sentence to read as
follows: "Taxable under the Service and Other Activities
classification on income from services which are not
included within the definition of the term "competitive
telephone service" as defined herein".

WAC-458-20-247 Except for the Sections "Definitions", and "Business and
Occupation Tax" all others are deleted. Under Section
"Definitions" delete the first paragraph. Under Sub-
section "Value of Property Traded-In", second sentence,
delete the words "in order to artificially lower the
amount of sales or use tax due". Also, Delete the last
sentence. Under Section "Business and Occupation Tax",
delete first sentence of the first paragraph. Delete
from the third paragraph the words "of public utility
taxes".

WAC-458-20-248 Delete from the first paragraph, first sentence the words
"or to retail sales tax". Delete from the fourth para-
graph, fifth sentence, the words ", and retail sales tax
as appropriate". Delete the last sentence of the sixth
paragraph.

WAC-458-20-249 Delete from the first paragraph the words "and certain
retail sales tax and use tax exemptions". Second para-
graph, first sentence, substitute January 1, 1987" for
"July 1, 1985". Delete second and third sentence.

Rule 2. "Engaging in Business" Illustrated.

The Seattle Business Tax Ordinance imposes an excise tax upon the privilege of "engaging in business activities" within Seattle measured by the gross revenues of such activities. The amount of tax is determined by multiplying the gross revenues considered in measuring the tax by the applicable rate unless the minimum tax applies.

The term "engaging in business" includes any business, professional or commercial activity which is carried on within the City. It includes a business of an interstate character having a location within the City.

A person, including a non-resident and/or a foreign corporation, who performs any of the following acts, "engages in business activity" within the City:

- A. Maintains within this City an office or other place of business or a local agent used in:
 - 1. Extracting or manufacturing activities;
 - 2. Rendering personal services or general services on other business activities;
 - 3. Selling or delivering tangible personal property within the City or State or in assisting a sale or transfer of tangible personal property such as: solicitation, negotiation, offer, acceptance, credit investigation, credit approval, transportation of the goods, delivery or performance of the service, passage of title or receipt of purchase price; or
 - 4. The performance of construction or installation contract.
- B. Maintains within this City a stock of goods at either a public warehouse or in a private storage place from which deliveries are made and/or
- C. Undertakes any activity in connection with the performance of construction contracts or leasing of tangible personal property within this City.

These examples illustrate the concept of "engaging in business", and are not an all-inclusive listing.

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Rule 3. Measuring the Amount of Tax. Unless an exemption, deduction or exclusion under SMC, § 5.44.070 through § 5.44.110, inclusive, applies, the gross proceeds of a sale of tangible personal property are included in measuring the gross proceeds of sales of a taxpayer engaging in the business of wholesaling or retailing from an office or place of business within the City whenever:

- (a) The personal property is located in or brought into the City;
- (b) The taxpayer's office or place of business within the City performs services essential to the sale; or
- (c) the taxpayer's office or place of business renders services that are decisive factors in establishing or holding the market for the goods sold.

Department of Revenue WAC-458-20-193, Parts A & B, will be used as a guide in administering this rule.

Unless an exemption, deduction or exclusion under SMC, § 5.44.076 through § 5.44.110, inclusive, applies, the gross income received from performing a service is included in measuring the amount of tax due from a taxpayer engaged in rendering services from an office or place of business within the City whenever:

- (a) the service is performed in whole or in part within the City;
- (b) the taxpayer's office or place of business within the City participates in effecting the transaction; or
- (c) the taxpayer's office or place of business performs activities that are decisive factors in establishing or holding the clientele or customers for the service.

Rule 4. Interstate and Foreign Commerce Deductions. Department of Revenue WAC-458-20-193, Parts C & D will serve as a guide for determining whether a deduction may be allowed for the proceeds of a particular transaction as constituting interstate or foreign commerce.

Rule 5. Apportionment. The Business Tax due from a taxpayer, who maintains an office or place of business within the City and not elsewhere, is measured by the gross value of the products, gross proceeds of sale or gross income of the business, without apportionment, irrespective of whether all or a major portion of the taxpayer's activities with regard to a particular transaction or series of transactions occurs outside the City, unless the interstate or foreign commerce deduction (see Rule 4), another deduction, or an exemption applies. For examples of the application of an analogous rule, see Department of Revenue WAC 458-20-194.

A taxpayer who maintains an office, plant, warehouse, or other place of business within the City and also elsewhere, shall apportion to the taxpayer's business activity within the City that portion of the gross value of products, gross proceeds of sales, or gross income of the business, as the case may be, as shall be ascertained in accordance with SMC, § 5.44.070 through § 5.44.078.

When an interstate taxpayer's only office or place of business within the State is located in the City, the apportionment formula adopted by the Department of Revenue for allocating business of the taxpayer to the State of Washington will apply so that the same gross figures may be used. For examples of apportionment, see *Lone Star Cement Corp. v. The City of Seattle*, 71 Wn.2d 564, 429 P.2d 909 (1967) and *Greyhound Lines v. Tacoma*, 81, Wn.2d 525, 503 P.2d 117 (1972).

Rule 6. Interpretations. SMC, Chapter 5.44, and these rules will be interpreted and applied with the objective of providing as much similarity in the assessment and payment of the City Business Tax and the State Business and Occupation Tax imposed by RCW Chapter 82.04 as practical while recognizing the differences between the two taxing jurisdictions and their legislation.

Rule 7. Disclosure of Taxpayer Information

This rule governs the inspection, copying, and disclosure of information from tax returns. It is intended to implement SMC §§ 5.44.200 and 5.44.205, protect a taxpayer's right of privacy in information supplied to the department, allow disclosure consistent with the State Public Disclosure Act, RCW 42.17.260-.340, and authorize use of statistical data.

Confidentiality of records: No tax returns or information identifying individual taxpayers shall be released, in any form, without the taxpayer's authorization, except as authorized in SMC § 5.44.200 and this rule and applicable State or federal laws. Departmental maintenance of confidentiality of taxpayer information is subject to: public disclosure of whether or not a taxpayer is licensed; departmental disclosure as appropriate in collection or enforcement proceedings involving the taxpayer; release of departmental decisions and opinions on tax questions which describe the underlying facts and circumstances; and release of the information specifically authorized in SMC § 5.44.200.

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Inspection of tax records: A taxpayer may inspect his or her own returns and other information the taxpayer supplied to the department, upon reasonable notice, during office hours. The department will presume that disclosing to a member of the public a taxpayer's return or information about a taxpayer's gross receipts (or taxes paid which are measured by gross receipts) would infringe the taxpayer's right to privacy and cause the taxpayer an unfair competitive disadvantage; the department will therefore deny inspection unless the requestor can provide authorization from the taxpayer or other authority to supersede the presumption.

General terms or conditions: A request for disclosure shall be made in writing identifying the material for inspection and/or copying precisely. The Director may require a person, who requests information, to present proper identification and/or authorization when disclosure is limited to particular persons or contingent upon satisfying other conditions; and the Director may limit inspection of information maintained on tape or machine coding to those extracts transcribed in response to the request.

Before supplying a list of individuals, the Director will require the person making the request to sign a statement that the information will not be used for commercial purposes as prohibited by RCW 42.17.260(5) and SMC § 5.44.200(A).

The furnishing of copies of records and the supplying of special services and publications are subject to payment of fees authorized by SMC § 5.44.205.

The Director will evaluate requests involving department research or compilation of statistical information in light of the information requested, the work involved in preparing it, the purpose of its compilation, and the impact of complying with the request on departmental work loads. Statistical information released will be of general data, or, at least so classified, as to prevent identification of individual tax returns or information about individual taxpayers.

When required, fees are payable on or before delivery of the information.

Rule 8. Schedule payments of underpaid taxes.

In order to encourage compliance with tax payments and due date requirements of Chapter 5.44 and Chapter 5.46 of the Seattle Municipal Code, all payments of penalties, interest, and tax shall be due and payable as required by those Chapters, except that the Director may accept partial payments of penalties, interest and tax from a taxpayer when the following conditions exist:

1. The taxpayer has not failed to make a good faith response to a debit note, demand letter or other request by the Department for payment prior to his or her request for partial payment; or failure to respond is the result of events beyond the control of the taxpayer that would qualify for a waiver pursuant to WAC 458-20-228.
2. The taxpayer has voluntarily contacted the Department, in good faith, to pay all amounts due on a partial payment schedule; and
3. The taxpayer agrees to pay interest owed on delinquent amounts; and
4. The partial payment schedule shall not exceed one year, measured from the date of first payment to the date of the last payment; and
5. The taxpayer waives his or her right to appeal the tax determination.

The payment schedule shall be documented on a form or in a format provided by the Department.

Rule 9. Allocation of Proceeds of Construction "Contracting".

Purpose: This rule provides for the allocation of the gross proceeds of sales of contractors who engage in business in Seattle and also elsewhere. It also harmonizes the principles for allocating the gross receipts of a taxpayer, who engages in construction contracting in two or more Washington cities, with the principles for allocating gross income between Washington cities in SMC § 5.44.075 with respect to property maintenance services. Rule 1(a), in adopting WAC 458-20-170 and WAC 458-20-172 with amendments, provides guidance in classifying particular "contracting" activity as "retailing" or "services and other business activity" for purposes of determining the applicable tax rate under SMC § 5.44.030.

Definitions: As used in this rule:

"Buildings or other structures" has the meaning in WAC 458-20-170.

"Contractor" means a "prime contractor" or "subcontractor" as defined in WAC 458-20-170.

"Contracting" means "contracting, repairing, decorating or improving of new and existing buildings or other structures" as defined in WAC 458-20-170. Unless the contractor is engaged in the business of providing a delivery service, "contracting" contemplates more activity than simply making delivery at a site, and unloading, uncrating or unwrapping, or testing of supplies or equipment incidental to delivery.

"Office" means a place where the contractor holds himself or herself out to the public for the regular transaction of business. An office has a mailing address and usually a telephone listing, serves as a central location for the administration of the contractor's business and contains general business records. A building or shelter on a construction site may constitute an office for purposes of allocating income between offices in Seattle and also elsewhere (Rule 9(c)) when the on-site location has a resident supervisor and a separate telephone listing, and the contractor hires employees or subcontractors and orders supplies and materials from there.

9(a) - On-site work in Seattle:

Every contractor is subject to Seattle's Business and Occupation tax measured by the gross proceeds of sales derived from "contracting" on buildings or other structures located in Seattle and/or on a public works contract with the municipal corporation of The City of Seattle. No deduction is allowed on the gross proceeds of on-site "contracting" in Seattle or on a contract with The City of Seattle, itself because the contractor may maintain an office, incur expenses, or do preparatory work outside Seattle.

9(b) - Only Office in Seattle:

Every contractor, who maintains an office within Seattle and not elsewhere, is subject to Seattle's Business and Occupation tax measured by (i) the gross proceeds of sales arising from "contracting" on all buildings or other structures or with the City of Seattle, itself in Seattle; and (ii) the gross proceeds of sales administered or processed through the contractor's Seattle office even though the buildings or other structures may be located elsewhere in Washington. The contractor may deduct from the gross proceeds of sales taxable under subsection (ii) (office inside Seattle; construction site outside) the proceeds of those sales which satisfy these three criteria:

- (1) The contractor derives the sales from "contracting" on buildings or other structures located in another Washington city;
- (2) The contractor pays a business license fee or tax to the city where the buildings or other structures are located, and the fee or tax is measured as a percentage of the contractor's proceeds of sales or gross receipts; and

- (3) The proceeds of the sales, which are deducted in calculating the Seattle tax, are used in determining the amount of taxes paid to the other Washington city.

The proceeds of a sale are counted only once in calculating Seattle's business tax although the contractor's office and building site are both in Seattle.

9(c) - Offices in Seattle and elsewhere in Washington:

A contractor who maintains an office within Seattle and one or more office(s) elsewhere in the State of Washington, may allocate his or her gross proceeds of sales to reflect the business activity rendered at or through each business location. Rule 9(a) applies to the gross proceeds of sales derived from "contracting" on buildings or other structures within Seattle or with the City of Seattle, itself; Rule 9 (b) applies to the gross proceeds of sales allocated to the contractor's Seattle office. The amount of tax due Seattle is measured by the sum of Rule 9(a) and Rule 9(b).

Effective September 1, 1987, rules and regulations, Number 1 to 9, inclusive, are hereby adopted and published to implement Seattle Municipal Code Chapter 5.44. These rules and regulations supersede the earlier rules and regulations, adopted January 1, 1986, as amended and supplemented from time to time.

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The Revenue Act imposes taxes upon persons engaged in business but not upon persons acting solely in the capacity of employees or servants.

The question of whether a person is engaged in business or is acting in the capacity of an employee is not always readily determinable. The following rules may, however, be accepted as a guide but are not necessarily controlling in individual cases. In cases of doubt all the facts should be submitted to the Department of Revenue for a specific ruling.

PERSONS ENGAGING IN BUSINESS. A person engaging in business is generally one who holds himself out to the public as engaging in business either in respect to dealing in real or personal property or in respect to the rendition of services; one to whom gross income of the business inures; one upon whom liability for losses lies or who bears the expense of conducting a business; one, generally, acting in an independent capacity, whether or not subject to immediate control and supervision by a superior, or one who acts as an employer and has employees subject to his control and supervision.

Persons employed by retailers or wholesalers, and selling on their own account tangible personal property of a type sold by their employers, are deemed to be engaging in business and must apply for and obtain a Business License and pay the business and occupation tax upon sales made by them, irrespective of the amount or frequency of such sales.

EMPLOYEES AND SERVANTS. An employee or servant is an individual whose entire compensation is fixed at a certain rate per day, week or month, or at a certain percentage of the business obtained by such employee or servant, payable in all events; one who has no direct interest in the income or profits of the business other than a wage or commission; one who has no liability for the expenses of maintaining an office or place of business, for other overhead or for compensation of employees; one who has no liability for losses or indebtedness incurred in conducting the business; one whose conduct with respect to services rendered, obtaining of, or transacting business, is supervised or controlled by the employer. A corporation, joint venture, or any group of individuals acting as a unit, is not an employee or servant.

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Persons who furnish equipment on a rental basis and also furnish operators therefore, are presumed to be engaging in business and not to be employees or servants. Likewise, persons who furnish materials and the labor necessary in the placing or fabricating thereof are also presumed to be engaging in business and not to be employees or servants. The burden of proof will be upon such persons to show otherwise.

The fact that a person is construed to be an employee under the provisions of the State Employment Security Act or the Federal Social Security Act, does not conclusively establish such persons as an employee within the provisions of the Revenue Act. However, where a person is not construed to be an employee under the State Employment Security Act or the Federal Social Security Act, such person will not be considered an employee under the Revenue Act.

BUILDING TRADES. Persons regularly performing odd job carpentry, painting or paperhanging, plumbing, bricklaying, electrical work, etc., for the public generally are presumed to be engaging in business. The burden of proof is upon such persons to show otherwise. Here it is immaterial whether the workman is paid by the job, by the day or by the hour. It is likewise immaterial that the workman may supply labor only, any materials used being supplied by the property owner.

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WAC-458-20- CASUAL OR ISOLATED SALES; BUSINESS REORGANIZATIONS
106

A casual or isolated sale is defined by RCW 82.04.040 as a sale made by a person who is not engaged in the business of selling the type of property involved. Any sales which are routine and continuous must be considered to be an integral part of the business operation and are not casual or isolated sales.

Futhermore, persons who hold themselves out to the public as making sales at retail or wholesale are deemed to be engaged in the business of selling, and sales made by them of the type of property which they hold themselves out as selling, are not casual or isolated sales even though such sales are not made frequently.

In addition the sale at retail by a manufacturer or wholesaler of an article of merchandise manufactured or wholesaled by him is not a casual or isolated sale, even though he may make but one such retail sale.

BUSINESS AND OCCUPATION TAX

The business and occupation tax does not apply to casual or isolated sales.

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SELLING PRICE, GROSS PROCEEDS OF SALES, TRADE-INS, WARRANTIES,
MAINTENANCE AGREEMENTS, SERVICE CONTRACTS.

~~"The term 'selling price' means the consideration, whether money, credits, rights, or other property, expressed in the terms of money, paid or delivered by a buyer to a seller, all without any deduction, on account of the cost of tangible property sold, the cost of materials used, labor costs, interest, discount, delivery costs, taxes or any other expenses whatsoever paid or accrued and without any deduction on account of losses." (RCW 82.08.010.)~~

~~"The term 'gross proceeds of sales' means the value proceeding or accruing from the sale of tangible personal property...without any deduction on account of the cost of property sold, the cost of materials used, labor costs, interest, discount paid, delivery cost, taxes, or any other expense whatsoever paid or accrued and without any deduction on account of losses." (RCW 82.04.070.)~~

~~When tangible personal property is rented or leased, the "selling price" includes all charges to the renter or lessee for the use of the property rented or leased, including charges designated as insurance, interest and other costs recovered stated separately from the regular rental fee. When tangible personal property is rented or leased under circumstances that the consideration paid does not represent a reasonable rental for the use of the articles so rented or leased, the "selling price" must be determined as nearly as possible according to the value of such use at the places of use of similar products of like quality and character. In cases of doubt, all of the pertinent facts should be submitted to the Department of Revenue for an advisory determination.~~

~~The terms "selling price" and "gross proceeds of sales" include items of cost which are the direct obligation of the seller but which he may invoice separately to his customer. Examples of such costs are the cost of the contractor's performance bond, the cost of city or state business and occupation taxes or public utility taxes, the cost of insurance protecting the seller and the cost of freight in. The selling price can be payable in money or other wise. If it is payable in whole or in part in property, each party is a seller of the property he is to transfer.~~

~~TRADE-INS. The selling price or gross proceeds of sales includes the full consideration whether in money or property or both expressed in terms of money. If traded in property is subsequently resold at retail, the retail sales tax must be collected on the selling price thereof and the amount of such selling price must be reported by the seller as gross proceeds of sales.~~

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To illustrate: An automobile is sold at retail for \$1,000.00. The purchaser pays \$600.00 in cash and is allowed \$400.00 as the trade-in value of a used automobile. The selling price, upon which the sales tax must be collected and the amount to be reported as gross proceeds of sales, is \$1,000.00. If the automobile traded-in is later sold for \$500.00 the sales tax must be collected on such selling price, and the amount of such selling price must be reported as gross proceeds of sales.

In some industries it is customary to quote the purchaser an "exchange" price, i.e., a reduced price quoted in the expectation that the purchaser will trade in, or "exchange" a used article or the same type. In such case the selling price is the exchange price plus the value of the article exchanged.

WARRANTIES, MAINTENANCE AGREEMENTS, AND OR SERVICE CONTRACTS.
When a warranty or service contract is sold along with a sale of tangible personal property the entire charge is taxable as gross proceeds from the sale of tangible personal property. However, the sale of a warranty or service contract by itself is a transaction subject to business tax under the service classification upon gross income therefrom. A person performing repair work pursuant to a warranty or service contract is taxable as a retailer or wholesaler upon amounts received for performance of such work, including amounts received from another who may have sold the warranty or service contract and amounts received from the owner of the property. If the repairman himself issued the warranty or service contract, he is taxable as a retailer or wholesaler upon any additional amounts received at the time repair work is done. The sale of a maintenance contract which calls for regular or periodic maintenance, repair or adjustment of tangible personal property is taxable as a retail or wholesale sale, as the case may be. For purposes of this rule, the following definitions apply:

Warranties, sometimes referred to as guarantees, are agreements which call for the replacement or repair of tangible personal property with no additional charge for parts or labor, or both, based upon the happening of some unforeseen occurrence, e.g., the property breaks down.

Maintenance agreements, sometimes referred to as service contracts, are agreements which require the specific performance of repairing, cleaning, altering or improving of tangible personal property on a regular or periodic basis to ensure its continued satisfactory operation.

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Manufacturer's warranties are generally included within the retail selling price of the property and no additional charge is made. However, when any additional charge is made for any warranty protecting tangible personal property sold, additional tax liability is incurred depending on how the warranty is sold. If it is sold by the retail seller of the property protected by the warranty and concomitant with the sale of that property, the entire charge, including the charge for the warranty, is subject to retailing business tax. This is so even though the warranty charge may be separately billed or separately itemized on any billing. Such warranty sales are deemed to be "for labor and services rendered in respect to . . . installing, repairing, cleaning, altering, imprinting, or improving tangible personal property of or for consumers . . ." and therefor they are "retail sales" under RCW 82.04.050.

Warranties which are sold by any person who was not the seller of the property protected by the warranty or which are purchased subsequent to and distinct from the original warranty purchased concomitant with the property, are deemed to be services rather than retail sales. Charges for such warranties are subject to the service business tax.

MAINTENANCE AGREEMENTS. Maintenance agreements and service contracts require the periodic specific performance of inspecting, cleaning, physical servicing, altering, and/or improving of tangible personal property. Therefor, charges for contracts or agreements of this nature are retail sales, subject to retailing business tax under all circumstances.

In the cases of both warranties and maintenance agreements, any actual additional charge made to the consumer because of the providing of materials or the performance of actual labor pursuant to such agreements is separately taxable under the retailing business tax. This includes so-called "deductible" amounts not covered by the warranty or service agreement.

Moreover, if an agreement contains warranty provisions but also requires the actual specific performance of inspecting, cleaning, servicing, altering, or improving the property on a regular or periodic basis, without regard to the operating condition of the property, such agreements are fully taxed as service agreements, not warranties.

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WAC-458-20-
108 RETURNED GOODS, ALLOWANCES, CASH DISCOUNTS

When a contract of sale is made subject to cancellation at the option of one of the parties or to revision in the event the goods sold are defective or if the sale is made subject to cash or trade discount, the gross proceeds actually derived from the contract and the selling price are determined by the transaction as finally completed.

RETURNED GOODS. When sales are made either upon approval or upon a sale or return basis, and the purchaser returns the property purchased and the entire selling price is refunded or credited to the purchaser, the seller may deduct an amount equal to the selling price from gross proceeds of sales in computing tax liability, if the amount of sales tax previously collected from the buyer has been refunded by the seller to the buyer. If the property purchased is not returned within the guaranty period as established by contract or by customs of the trade, or if the full selling price is not refunded or credited to the purchaser, a presumption is raised that the property returned is not returned goods but is an exchange or a repurchase by the vendor.

To Illustrate: S sells an article for \$60.00 and credits his sales account therewith. The purchaser returns the article purchased within the guaranty period and the purchase price and the sales tax theretofore paid by the buyer is refunded or credited to him. S may deduct \$60.00 from the Gross Amount reported on his tax return.

DEFECTIVE GOODS. When bona fide refunds, credits or allowances are given within the guarantee period by a seller to a purchaser on account of defects in goods sold, the amount of such refunds, credits or allowances may be deducted by the seller in computing tax liability, if the proportionate amount of the sales tax previously collected from the buyer has been refunded by the seller.

S sells an article to B for \$60.00 and credits his sales account therewith. The article is later found to be defective.

a. S gives B a credit of \$50.00 on account of the defect, and also a credit of sales tax collectible on that amount. S may deduct \$50.00 from the Gross Amount reported in his tax returns. This is true whether or not B retains the defective article.

b. B returns the article to S who gives B an allowance for \$50.00 on a second article on the same kind which B purchases for an additional payment of \$10.00, plus sales tax thereon. S may deduct \$50.00 from the Gross Amount reported in his tax returns. The sale of the second article, however, must be reported for tax purposes as a \$60.00 sale and included in the Gross Amount in his tax return.

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c. B returns the article to S who replaces it with a new article of the same kind free of charge, and without sales tax. S may deduct \$60.00 from the Gross Amount reported in his tax returns, but the \$60.00 selling price of the substituted article must be reported in the Gross Amount.

No deduction is allowed from the Gross Amount reported for tax if S in "b" and "c" above, does not credit his sales account with the selling price of the new article furnished to replace the defective one, but instead merely credits the sales account with an amount equal to additional payment received, if any. In such case, the allowance for the defect is already shown in the sales account by the reduced sales price of the new article.

DISCOUNTS. The selling price of a service or of an article of tangible personal property does not include the amount of bona fide discounts actually taken by the buyer and the amount of such discount may be deducted from gross proceeds of sales providing such amount has been included in the Gross Amount reported. Discounts are not deductible under the retail sales tax when such tax is collected upon the selling price before the discount is taken and no portion of the tax is refunded to the buyer. Discount deductions will be allowed under the Extracting or Manufacturing classifications only when the value of the products is determined from the gross proceeds of sales. Patronage dividends which are granted in the form of discounts in the selling price of specific articles (for example, a rebate of one cent per gallon on purchases of gasoline) are deductible. (Some types of patronage dividends are not deductible. See WAC 458-20-219.)

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WAC-458-20- FINANCE CHARGES, CARRYING CHARGES, INTEREST, PENALTIES
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BUSINESS AND OCCUPATION TAX

Persons who receive finance charges, carrying charges, service charges, penalties and interest are taxable with respect thereto under the Service and Other Business Activities classification.

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WAC-458-20-
110 FREIGHT AND DELIVERY CHARGES

Amounts received by a seller from a purchaser for freight and delivery costs incurred by the seller prior to completion of sale constitute recovery of costs of doing business and must be included in the selling price or gross proceeds of sales reported by the seller regardless of whether charges for such costs are billed separately and regardless of whether the seller is also the carrier.

Freight and delivery costs incurred by a lessor, regardless of whether billed separately to a lessee or not, are costs of doing business to the lessor in every case and must be included in the selling price or gross proceeds of sales reported by the lessor.

"Reimbursements" received by a seller for the actual amount of freight and delivery costs advanced for a purchaser after completion of sale are deductible from the selling price or gross proceeds of sales. (See WAC-458-20-111.)

Where the seller is the carrier and separate delivery charges, in addition to the selling price, are made to a purchaser after completion of sale, such charges may not be deducted by the seller from the selling price.

Note: See WAC-458-20-112 for the deduction of out-of-state freight and delivery charges from "value of products".

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WAC-458-20- ADVANCES AND REIMBURSEMENTS
111

The word "advance" as used herein, means money or credits received by a taxpayer from a customer or client with which the taxpayer is to pay costs or fees for the customer or client.

The words "reimbursement" as used herein, means money or credits received from a customer or client to repay the taxpayer for money or credits expended by the taxpayer in payment of costs or fees for the client.

The word "advance" and "reimbursement" apply only when the customer or client alone is liable for the payment of the fees or costs and when the taxpayer making the payment has no personal liability therefor, either primarily or secondarily, other than as agent for the customer or client.

There may be excluded from the measure of tax amounts representing money or credit received by a taxpayer as reimbursement of an advance in accordance with the regular and usual custom of his business or profession.

The foregoing is limited to cases wherein the taxpayer, as an incident to the business, undertakes, on behalf of the customer, guest or client, the payment of money, either upon an obligation owing by the customer, guest or client to a third person, or in procuring a service for the customer, guest or client which the taxpayer does not or cannot render and for which no liability attaches to the taxpayer. It does not apply to cases where the customer, guest or client makes advances to the taxpayer upon services to be rendered by the taxpayer or upon goods to be purchased by the taxpayer in carrying on the business in which the taxpayer engages.

For example, where a taxpayer engaging in the business of selling automobiles at retail collects from a customer, in addition to the purchase price, an amount sufficient to pay the fees for automobile license, tax and registration of title, the amount so collected is not properly a part of the gross sales of the taxpayer but is merely an advance and should be excluded from gross proceeds of sales. Likewise, where an attorney pays filing fees or court costs in any litigation, such fees and costs are paid as agent for the client and should be excluded from the gross income of the attorney.

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On the other hand, no charge which represents an advance payment on the purchase price of an article or a cost of doing or obtaining business, even though such charge is made as a separate item, will be construed as an advance or reimbursement. Money so received constitutes a part of gross sales or gross income of the business, as the case may be. For example, no exclusion is allowed with respect to amounts received by (1) a doctor for furnishing medicine or drugs as a part of his treatment; (2) a dentist for furnishing gold, silver or other property in conjunction with his services; (3) a garage for furnishing parts in connection with repairs; (4) a manufacturer or contractor for materials purchased in his own name or in the name of his customer if the manufacturer or contractor is obligated to the vendor for the payment of the purchase price, regardless of whether the customer may also be so obligated; (5) any person engaging in a service business or in the business of installing or repairing tangible personal property for charges made separately for transportation or traveling expense.

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The term "value of products" includes the value of by-products and except as provided herein, shall be determined by "gross proceeds of sales" whether such sales are at wholesale or at retail, to which shall be added all subsidies and bonuses received with respect to the extraction, manufactured, or sale thereof.

"The term 'gross proceeds of sales' means the value proceeding or accruing from the sale of tangible personal property...without any deduction on account of the cost of property sold, the cost of materials used, labor costs, interest, discount paid, delivery costs, taxes, or any other expense whatsoever paid or accrued and without any deduction on account of losses." (RCW 82.04.070.)

IN THE CASE OF BONA FIDE SALES OF PRODUCTS. The law provides (RCW 82.04.450.), that under the Extracting and Manufacturing classifications of the business and occupation tax the value of products extracted or manufactured shall be determined by the gross proceeds of sales in every instance in which a bona fide sale of such products is made, and whether sold at wholesale or at retail.

SALES TO POINTS OUTSIDE THE STATE. In determining the value of products delivered to points outside the state there may be deducted from the gross proceeds of sales so much thereof as the taxpayer can show to be actual transportation costs from the point at which the shipment originates in this state to the point of delivery outside the state.

ALL OTHER CASES. The law provides that where products extracted or manufactured are

1. For commercial or industrial use (by the extractor or manufacturer--see WAC-458-20-134); or
2. Transported out of the state, or to another person without prior sale; or
3. Sold under circumstances such that the stated gross proceeds from the sale are not indicative of the true value of the subject matter of the sale;

the value shall correspond as nearly as possible to the gross proceeds from other sales at comparable locations in this state of similar products of like quality and character, in similar quantities, under comparable conditions of sale, to comparable purchasers, and shall include subsidies and bonuses.

In the absence of sales of similar products as a guide to value, such value may be determined upon a cost basis. In such cases, there shall be included every item of cost attributable to the particular article or article extracted or manufactured, including direct and indirect overhead costs.

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WAC-458-20-114 NONBUSINESS INCOME--BONA FIDE INITIATION FEES, DUES, CONTRIBUTIONS, TUITION FEES AND ENDOWMENT FUNDS.

RCW 82.04.4282 provides for a business and occupation tax deduction for amounts derived from activities and charges of essentially a non-business nature. Thus, outright gifts, donations, contributions, endowments, tuition, and initiation fees and dues which do not entitle the payor to receive any significant goods or services in return for the payment are not subject to business and occupation tax. The scope of this statutory deduction is limited to situations where no business or proprietary activity (including the rendering of goods or services) is engaged in which directly generates the income claimed for deductions.

Many for-profit or nonprofit entities may receive "amounts derived," as defined in this rule, which consist of mixture of tax deductible amounts (bona fide initiation fees and dues) and taxable amounts (payment for significant goods and services rendered). For purposes of distinguishing between these kinds of income, the law requires that tax exemption provisions must be strictly construed against the person claiming exemption. Also, RCW 82.32.070 requires the maintenance of suitable records as may be necessary to determine the amount of any tax due. The result of these legal requirements is that all persons must keep adequate records sufficient to establish their entitlement to any claimed tax exemption or deduction.

CONTRIBUTIONS, DONATIONS, AND ENDOWMENTS.

Only amounts which are received as outright gifts are entitled to deduction. Any amounts, however designated, which are received in return for any goods, services, or business benefits are subject to business and occupation tax under the appropriate classification depending upon the nature of the goods, services, or benefits provided. Thus, for example, so-called "grants" which are received in return for the preparation of studies, white papers, reports, and the like do not constitute deductible contributions, donations, or endowments. RCW 82.04.4297 and WAC 458-20-169 provide for a specific deduction for compensation from public entities for health or social welfare services.

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BONA FIDE INITIATION FEES AND DUES.

(Cont'd)

The law does not contemplate that the deduction should be granted merely because the payments required to be made by members or customers are designated as "initiation fees" or "dues." The statutory deduction is not available for outright sales of tangible personal property or for providing facilities or services for a specific charge. Neither is it available "... if dues are in exchange for any significant amounts of goods or services rendered by the recipient thereof to members without any additional charge to the member, or if the dues are graduated upon the amount of goods or services rendered . . ." (RCW 82.04.4282). Thus, it is only those initiation fees and dues which are paid for the express privilege of belonging as a member of a club, organization, or society, which are deductible.

Also, the statute does not distinguish between the kinds of clubs, organizations, associations, or other entities which may be eligible for this deduction. They may be operated for profit or nonprofit. They may be owned by the members, incorporated, or operating as a partnership, joint venture, sole proprietorship, or cooperative group. They may be of a charitable, fraternal, social, political, benevolent, commercial, or other nature. However, none of these characteristics determines the entitlement to tax deduction. The availability of the deduction is determined solely by the nature of the activity or charge which generates the "amounts derived" as defined in this rule.

The deduction is limited to business and occupation tax. (See WAC 458-20-183, Places of amusement or recreation, and WAC 458-20-166, Hotels, motels, boarding houses, resorts, summer camps, trailer camps, etc., for additional guidance relative to retail sales and retail services.)

DEFINITIONS:

The words and terms utilized in RCW 82.04.4282 are not given a statutory definition in the Revenue Act. Under the general rules of statutory construction, those words and terms are to be given their ordinary and common meaning. Hence, for purposes of RCW 82.04.4282 and this rule the following definitions will apply:

"Amounts derived" means gross income from whatever source and however designated. It includes "gross proceeds of sales" and "gross income of the business" as those terms are defined by RCW 82.04.070 and 82.04.080, respectively. It shall also include income attributable to bona fide initiation fees and bona fide dues.

"Bona fide" shall have its common dictionary meaning, i.e., in good faith, authentic, genuine.

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"Initiation fees" are those initial amounts which are paid solely to admit a person as a member to a club or organization. "Bona fide initiation fees" within the context of this rule shall include only those one-time amounts paid which genuinely represent the value of membership in a club or similar organization. It shall not include any amount paid for or attributable to the privilege of receiving any goods or services other than mere nominal membership.

"Dues" are those amounts paid solely for the privilege or right of retaining membership in a club or similar organization. "Bona fide dues" within the context of this rule shall include only those amounts periodically paid by members which genuinely entitle those persons to continued membership in the club or similar organization. It shall not include any amounts paid for goods or services rendered to the member by the club or similar organization.

"Significant amount" relates to the quantity or degree of goods or services rendered and made available to members by the organization. "Significant" is defined as having important meaning or the quality of being important.

"Goods or services rendered" shall include those amusement and recreation activities as defined in RCW 82.04.050, WAC 458-20-166, and 458-20-183. The term shall include the totality or aggregate of goods or services available to members. It is not determinative that some members actually receive more goods or actually enjoy more services than others so long as the totality of the goods or services offered are made available to members in general.

"Any additional charge" means a price or payment other than bona fide initiation fees or dues, paid by persons for particular goods and services received. The additional charge must be reasonable and any business taxes must be paid upon such charges in order to qualify other income denominated as "dues" to be deductible. The reasonableness of any additional charge will be based on one of the following two criteria: (1) It must cover all costs reasonably related to furnishing the goods or services, or (2) it must compare with charges made for similar goods or services by other commercial businesses.

"Value of such goods or services" shall mean the market value of similar goods or services or computed value based on costs of production.

METHODS OF REPORTING:

Persons who receive any "amounts derived" from initiation fees and/or dues may report their tax liabilities and determine the amount of tax reportable under different classifications (Retailing or Service) by use of alternative methods, based upon:

1. A standard deduction of 20 percent of gross income. (This method is available for use only by not-for-profit organizations); or,

2. Actual records of facilities usage; or,
3. Cost of production of facilities and benefits.

All amounts derived from initiation fees and dues must be reported as gross income which then must be apportioned between taxable and deductible income. The alternative apportionment methods are mutually exclusive. Thus, if a qualifying organization elects to use the standard deduction, neither of the other methods may be used. Organizations which cannot qualify to take the standard deduction, or which elect not to do so, may apportion their income based upon such actual records of facilities usage as are maintained. This method is accomplished by:

- a) The allocation of a reasonable charge for the specific goods or services rendered: PROVIDED, That in no case shall any allocation of any separate charge for any goods or services be deemed "reasonable" if the aggregate of such charges is insufficient to cover the costs of providing such goods or services; or,
- b) The average comparable charges for such goods or services made by other commercial businesses.

The actual records of facilities usage method must reflect the nature of the goods or services and the frequency of use by the membership, either from an actual tally of times used or a periodic study of the average membership use of facilities. Actual usage reporting may also be based upon a graduated or sliding fees and dues structure. For example, an organization may charge different initiation fees or dues rates for a social membership than for a playing membership. The difference between such rates is attributable to the value of the goods or services rendered. It constitutes the taxable portion of the "amounts derived" allocable to that particular activity. Because of the broad diversification of methods by which "amounts derived" may be assessed or charged to members, the actual records of usage method of reporting may vary from organization to organization. The following are some examples of this reporting method for several different kinds of facilities.

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<u>Facility</u>	<u>Period</u>	<u>Source</u>	<u>Value Base</u>	<u>Usage</u>		<u>Value</u>	<u>Taxable Income</u>
<u>Golf</u>	<u>3 mos</u>	<u>Reser- vations</u>	<u>Mkt Comparison</u>	<u>5,000 rounds</u>	<u>X</u>	<u>* \$7.50 per Round</u>	<u>\$37,500</u>
<u>Camping</u>	<u>6 mos</u>	<u>Vacancy Study</u>	<u>Mkt Comparison</u>	<u>4,500 stays</u>	<u>X</u>	<u>\$12.50 per Stay</u>	<u>\$56,250</u>
<u>Racquet- ball</u>	<u>9 mos</u>	<u>Reser- vations</u>	<u>Charge to Nonmember</u>	<u>1,250 hours</u>	<u>X</u>	<u>\$4.00 per Hour</u>	<u>\$5,000</u>
<u>Swimming</u>	<u>12mos</u>	<u>Member Survey</u>	<u>Actual Charges</u>	<u>3,650 uses</u>	<u>X</u>	<u>\$1.00 per Use</u>	<u>\$3,650</u>
<u>Tennis</u>	<u>1 mo</u>	<u>Grad- uated Fee Structure</u>	<u>Grad- uated Fee Structure</u>	<u>200 playing members</u>	<u>X</u>	<u>\$50.00 per Member</u>	<u>\$10,000</u>

* Figures and dollar amounts shown are hypothetical.

Organizations which provide more than one kind of "goods or services" as defined in this rule, may provide such actual records for each separate kind of goods or services rendered. Based upon this method the total of apportioned "taxable" income may be subtracted from total gross income to derive the amount of gross income which is entitled to deduction as "bona fide initiation fees and dues" under RCW 82.04.4282.

COST OF PRODUCTION METHOD.

This alternative apportionment method is available only for persons who do not take the standard deduction and when, it is impossible or unfeasible to maintain actual usage records. Under such circumstances apportionment of income may be done based upon the cost of production of goods or services rendered. Persons using this method are advised to seek the department's review of the cost accounting methods applied, in order to avoid possible tax deficiency assessment if records are audited. In such cases the cost of production shall include all items of expense attributable to the particular facility (goods or services) made available to members, including direct and indirect overhead costs.

Direct overhead costs include all items of expense immediately associated with the specific goods or services for which the costs of production method is used, e.g., the salary of a swimming pool lifeguard or a golf club's greenskeeper.

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Indirect overhead costs include a pro rata share of total operating costs, including executive and employee salaries as well as a pro rata share of administrative expense and the cost of depreciable capital assets.

No portion of assets which have been fully depreciated will be included in computing overhead costs, nor will there be included any costs attributable to membership recruitment and advertising, or providing members with the indicia of membership (membership cards, certificates, contracts of rights, etc.)

The cost of production method is performed by multiplying gross income (all "amounts derived") by a fraction, the numerator of which is the cost of providing any specific goods or service, and the denominator of which is the organizations's total operating costs. The formula looks like this:

Direct and Indirect Costs of Specific Goods or Service
.....X Gross Income

Total Business Costs

The result is the portion of "amounts derived" which is allocable to the taxable facility (goods or services rendered.) The balance of gross amounts derived is deductible as bona fide initiation fees or dues. If more than one kind of facility (goods or services) is made available to members, this formula must be applied for each in order to determine the total of taxable and deductible amounts and to determine the amount of taxable income to report as either retailing taxable or service taxable.

Under very unique circumstances and only upon advance written request and approval, the department will consider variations of the foregoing accounting methods as well as additional factors shown to be unique to certain kinds of organizations.

Unless income accounting and reporting are accomplished by one or a combination of methods outlined in this rule, or under a unique reporting method authorized in advance by the department, it will be presumed that all "amounts derived" by any person who provides "goods or services" as defined herein, constitute taxable, nondeductible amounts.

Persons who derive income from initiation fees and dues may find that they have incurred business and occupation tax liability under both the retailing and service and other activities classifications. For example, an organization may furnish golf as well as sauna bath facilities to its members in return for payment of dues. The former is a retailing taxable activity while the latter is taxable under the service business tax. These taxes are at different rates. Once the income has been apportioned between taxable and deductible amounts, the parts of taxable income attributable to either retailing activities or service activities must be reported on the tax return under the appropriate classification and under the prevailing tax rates. (See WAC 458-20-183, 458-20-166, and RCW 82.04.050 for further guidance in distinguishing between retailing and service activities for tax purposes.)

NONPROFIT YOUTH ORGANIZATIONS.

Nonprofit youth organizations which, as such, are exempt from property tax under RCW 84.36.030 may deduct fees or dues received from members even though the members are entitled to use the organization's facilities, including camping and recreational facilities, in return for such payments. (See RCW 82.04.4271).

TUITION FEES.

The term "tuition fees" refers only to fees charged by educational institutions, and, in addition to instruction fees, includes library, laboratory, health and other special fees and amounts charged for room and board when the property or service for which such charges are made is furnished exclusively to the students or faculty of such institutions.

"Educational institutions" which may deduct "tuition fees" are those which have been created or generally accredited as such by the state or defined as a degree granting institution under RCW 28B.05.030(1) *and accredited by an accrediting association recognized by the United States secretary of education, and which offer to students an educational program of a general academic nature and those institutions which are not operated for profit and which are privately endowed under a deed of trust to offer instruction in trade, industry and agriculture, but not including specialty schools, business colleges, other trade schools or similar institutions. *"Degree granting institution" shall mean an educational institution, which offers educational credentials, instruction, or services prerequisite to or indicative of an academic or professional degree or certificate beyond the secondary level.

A business college, dancing school, music school or specialty school is not an "educational institution" within the meaning of that term as defined above. Tuition fees collected by such institutions are taxable under the Service and Other Business Activities classification of the business and occupation tax.

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The right to deduct bona fide initiation fees, dues, contributions, donations, tuition fees and endowment funds does not exempt any person, association or society from tax liability upon selling tangible personal property or upon providing facilities or services for which a special charge is made to members or others.

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WAC-458-20-
118 SALE OR RENTAL OF REAL ESTATE, LICENSE TO USE REAL ESTATE

Amounts derived from the sale and rental of real estate are exempt from taxation under the business and occupation tax. However, there is no exemption of amounts derived from engaging in business wherein a mere license to use or enjoy real property is granted. Further, no exemption is allowed for amounts received as commissions for the sale or rental of real estate. (RCW 82.04.390) nor for interest received by persons engaged in the business of selling real estate on time or installment contracts. For purposes of distinguishing the lease or rental of real estate from the granting of a license to use real estate (taxable under various other classifications of the business and occupation tax) the Department of Revenue will be guided by the following principles.

LEASE OR RENTAL OF REAL ESTATE. A lease or rental of real property conveys an estate or interest in a certain designated area of real property with an exclusive right in the lessee of continuous possession against the world, including the owner, and grants to the lessee the absolute right of control and occupancy during the term of the lease or rental agreement. An agreement will not be construed as a lease of real estate unless a relationship of "landlord and tenant" is created thereby. It is presumed that the sale of lodging by a hotel, motel, tourist court, etc., for a continuous period of thirty days or more is a rental of real estate. It is further presumed that all rentals of apartments and leased departments constitute rentals of real estate.

LICENSE TO USE REAL ESTATE. A license grants merely a right to use the real property of another but does not confer exclusive control or dominion over the same. Usually, where the grant conveys only a license to use, the owner controls such things as lighting, heating, cleaning, repairing and opening and closing the premises.

It will be presumed that license to use or enjoy real property is granted in the rental of the following:

1. Hotel rooms (for periods of less than 30 continuous days; See WAC 458-20-166).
2. Motels, tourist courts and trailer parks (for periods of less than 30 continuous days; See WAC-458-20-166).
3. Cold storage lockers (See WAC-458-20-133).
4. Safety deposit boxes.
5. Storage space (See WAC-458-20-182).
6. Space within park or fair grounds to a concessionaire.

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WAC-458-20- SALES OF MEALS
119

BUSINESS AND OCCUPATION TAX

All persons making sales of meals, upon which the retail sales tax applies under the provisions set forth in this ruling, are required to pay the business and occupation tax under the Retailing classification upon the gross proceeds derived from such sales.

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SALES OF FEED, SEED, FERTILIZER AND SPRAY MATERIALS

As used in this ruling:

The word "feed" means a substance used as food for animals, birds, fish, or ~~poultry, insects,~~ and includes whole and processed grains or mixtures thereof, hay and forages or meals made therefrom, mill feeds and feeding concentrates, stock salt, hay salt, bone meal, cod liver oil, double purpose limestone grit, oyster shell and other similar substances used to sustain or improve livestock or poultry. The word does not include substances which do not contribute directly to a resulting agricultural product, such as peat moss or litter, nor does it include hormones or products which are used as medicines rather than as food.

The word "seed" means propagative portions of plants, commonly used for seeding or planting whether true seeds, bulbs, plants, seedlike fruits, seedlings or tubers.

The word "fertilizer" means a substance which increases the productivity of the soil by adding plant foods or nutrients which improve and stimulate plant growth.

The term "spray materials" means materials in liquid, powder or gaseous form used by agricultural producers as described in RCW 82.04.330 for the purpose of controlling or destroying insects, parasites, vermin, animals, fungi, weeds, pests or plants of a similar nature, deleterious to the growth or conservation of horticultural plants, animals, or products derived therefrom. It includes pesticides as defined in RCW 15.58.030(1). It does not include mechanical devices for the elimination of pests nor does it include materials used for spraying forest trees by commercial timber producers.

The word "farmers" as used in this rule means any persons engaged in the business of growing or producing for sale at wholesale or retail upon their own lands, or upon lands in which they have a present right of possession, any agricultural product whatsoever, including milk, eggs, wool, fur, meat, honey, or other substances obtained from animals, birds, or insects. "Farmers" does not mean persons selling such products at retail, persons using such products as ingredients in a manufacturing process, or persons growing or producing such products for their own consumption. It does not mean any person dealing in livestock as an operator of a stockyard, slaughter house, or packing house; nor does it mean any person who is an "extractor" within the meaning of WAC 458-20-135.

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BUSINESS AND OCCUPATION TAX

Persons engaged in the business of selling feed, seed, fertilizer or spray materials are taxable under either the Retailing or Wholesaling classification on gross proceeds of sales. Sales of feed, seed, fertilizer, and spray materials to farmers as defined herein are taxable under the wholesaling classification: Provided, That wholesale sales of certain unprocessed grain and legumes may be taxable at a lower rate under the wholesaling grain classification (See WAC 458-20-161 for special classification of sales of unprocessed wheat, oats, corn, barley, or rye), even though the sale of such unprocessed grains or legumes is to a farmer for use as feed. Sales of feed, seed, fertilizer, and spray materials to consumers other than farmers are taxable under the retailing classification. Sales of feed for use in the cultivating or raising for sale of fish are taxable under the retailing classification.

Persons engaged in the business of spraying crops for hire are taxable under the Service and Other Business Activities classification on the gross income therefrom.

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WAC-458-20- PUBLIC AND LENDING LIBRARIES
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DEFINITIONS. The term "public libraries" as used herein means libraries operated by the state or by any governmental unit, as the term is defined by RCW 27.12.010.

The term "lending libraries" as used herein has reference to all libraries other than those operated by the state or by a governmental unit.

BUSINESS AND OCCUPATION TAX

RETAILING. Lending libraries are taxable under the Retailing classification upon the gross proceeds of sales and rental of all books and periodicals.

For tax liability of public libraries see WAC-458-20-189.

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WAC-458-20- RESTAURANTS, SODA FOUNTAINS, COCKTAIL BARS, BEER PARLORS, ETC.
124

As used herein, the term "restaurants, soda fountains, cocktail bars, beer parlors, etc.," means every place where prepared foods and beverages are sold and served to individuals, generally for consumption on the premises where sold.

GRATUITIES. Tips or gratuities representing donations or gifts by customers under circumstances which are clearly voluntary are not part of the selling price subject to tax. However, mandatory additions to the price by the seller, whether labeled service charges, tips, gratuities or otherwise must be included in the selling price and are subject to the retailing classification of the business and occupation tax.

BUSINESS AND OCCUPATION TAX

Taxable under the Retailing or Wholesaling classification upon the gross proceeds of sales.

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DEFINITIONS

As used herein:

The terms "real estate broker" and "real estate salesman" mean, respectively, a person licensed as such under the provisions of Chapter 18.85 RCW.

BUSINESS AND OCCUPATION TAX

A real estate broker is engaged in business as an independent contractor and is taxable under the Service and Other Activities classification upon the gross income of the business.

The measure of the tax on real estate commissions earned by the real estate broker shall be the gross commission earned by the particular real estate brokerage office including that portion of the commission paid to salesmen or associate brokers in the same office on a particular transaction: provided, however, that where a real estate commission is divided between an originating brokerage office and a cooperating brokerage office on a particular transaction, each brokerage office shall pay the tax only upon their respective shares of said commission; and provided further, that where the brokerage office has paid the tax as provided herein, salesmen or associated brokers within the same brokerage office shall not be required to pay a similar tax upon the same transaction. RCW 82.04.255.

Thus, with the exception of cooperating brokerage offices, no deduction is allowed for commissions, fees or salaries paid by a broker to another broker or salesman, nor for other expenses of doing business.

The term "gross income of the business" includes gross income from commissions, fees and other emoluments however designated which the agent receives or becomes entitled to receive, but does not include amounts held in trust for others. (See also WAC-458-20-111, Advances and Reimbursements.) No deductions are allowed for dues, charges, and fees paid to multiple listing associations.

Real estate salesmen are presumed to be independent contractors. They are subject to the Service and Other Activities classification of the business and occupation tax on gross income from real estate commissions and fees earned where the brokerage office at which the real estate salesman's license is posted has not paid the tax on the gross commission.

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GASOLINE SERVICE STATIONS

BUSINESS AND OCCUPATION TAX

RETAILING OR WHOLESALING. Persons operating gasoline service stations are taxable under the Retailing classification upon the gross proceeds of sales of tangible personal property, from services rendered with respect to the cleaning or repair of such property, gross income from towing and gross income from automobile parking and storage. On computing tax there may be deducted from gross proceeds of sales gross sales of motor vehicle fuel included therein.

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WAC-458-20-
130 SALES OF REAL PROPERTY, STANDING TIMBER, MINERALS, NATURAL
RESOURCES

BUSINESS AND OCCUPATION TAX

Amounts derived from the sale of real estate are not subject to tax under the business and occupation tax. However, no exemption is allowed where a mere license to use real estate is granted (See WAC-458-20-118). Further, no exemption is allowed for commissions received in connection with sales or real estate nor for interest received by persons engaged in the business of selling real estate on time or installments contracts.

Sales of standing timber, minerals in place, and other natural resources in place are sales of real estate, and are not subject to tax under the business and occupation tax.

Timber, minerals, and other natural resources, after being severed from the real estate, lose their identity as real property, and sales thereof after severance are subject to the provisions of the business and occupation tax.

Any person who cuts timber or who mines or quarries minerals, or who takes other natural resources is subject to tax as an extractor under the business and occupation tax. WAC-458-20-135.)

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WAC 458-20-
132 AUTOMOBILES FOR DEALERS/DEMONSTRATION PURPOSES AND EXECUTIVE
VEHICLES

(1) This section accounts for the unique practices of the retail automobile dealer's industry and reflects administrative notice of the customs of this trade. The tax reporting formula explained in this rule represents a compromise of tax liabilities and offsetting deductions. It recognizes that demonstrator and executive used vehicles are actually used for limited periods of time without significantly affecting their marketability or retail selling value, and that such used vehicles have a high trade-in value when returned to inventory for sale.

DEFINITIONS

(2) The terms "demonstration" and "demonstrator", as used in this section, mean the use of automobiles provided by dealers to their employees or other representatives, without charge, for any personal or business reason other than the mere display of such vehicles to prospective purchasers.

(3) The term "display", as used herein, means the showing for sale of vehicles to prospective purchasers, at or near the dealer's premises, including the short term test driving, operating, and examining by prospective purchasers.

(4) The term "executive use vehicle", as used herein, means any vehicle from sales inventory, used by any person associated with the automobile dealership for personal driving, other than for demonstration, when such person does not have a recent model vehicle registered in that person's own name.

BUSINESS AND OCCUPATION TAX

(5) Automobile dealers are taxable under the Retailing classification upon sales of automobiles to their ~~salesmen~~ employees or other representatives of automobiles for personal use, including demonstration purposes. The business and occupation tax does not apply upon the transfer of vehicles to employees or other representatives, where no sale occurs, for their personal use, including demonstration.

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BUSINESS AND OCCUPATION TAX

Persons engaged in the business of renting frozen food lockers are taxable under the Service and Other Business Activities classification upon the gross income from rentals thereof.

When such persons also engage in the activities of curing, smoking, cutting or wrapping meat of and for consumers, or do any other act through which such meat is altered or improved, they become taxable under the Retailing or Wholesaling classification upon the gross charges made therefor.

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WAC-458-20-
134 COMMERCIAL OR INDUSTRIAL USE

"The term 'commercial or industrial use' means the following uses of products, including by-products, by the extractor or manufacturer thereof: ~~(1)~~ (a) Any use as a consumer; and ~~(2)~~ (b) The manufacturing of articles, substances or commodities." (RCW 82.04.130.)

Following are examples of commercial or industrial use:

1. (a) The use of lumber by the manufacturer thereof to build a shed for ~~his~~ its own use.
2. (b) The use of a motor truck by the manufacturer thereof as a service truck for ~~himself~~ itself.
3. (c) The use by a boat manufacturer of patterns, jigs and dies which ~~he~~ it has manufactured.
4. (d) The use by a contractor building or improving a publicly owned road of crushed rock or pit run gravel which ~~he~~ it has extracted.

BUSINESS AND OCCUPATION TAX

Persons manufacturing or extracting tangible personal property for commercial or industrial use are subject to tax under the classifications Manufacturing or Extracting, as the case may be. The tax is measured by the value of the product manufactured or extracted and used. (See WAC-458-20-112 for definition and explanation of value of products.)

"The word 'extractor' means every person who, from the person's ~~his~~ own land or from the land of another under a right or license granted by lease or contract, either directly or by contracting with others for the necessary labor or mechanical services, for sale or commercial or industrial use mines, quarries, takes or produces coal, oil, natural gas, ore, stone, sand, gravel, clay, mineral or other natural resource product, or fells, cuts or takes timber, Christmas trees or other natural products, or takes, fish, or takes, cultivates, or raises fish, shellfish, or other sea or inland water foods or products. 'Extractor' ~~it~~ does not include persons performing under contract the necessary labor or mechanical services for others or persons cultivating or raising fish entirely within confined rearing areas on the person's own land or on land in which the person has a present right of possession." (RCW 82.04.100.)

The following examples are illustrative of operations which are included within the extractive activity:

1. Logging operations, including the bucking, yarding, and loading of timber or logs after felling, as well as the actual cutting or severance of trees. It includes other activities necessary and incidental to logging, such as logging road construction, slash burning, slashing, scarification, stream cleaning, miscellaneous cleaning, and trail work, where such activities are performed pursuant to a timber harvest operation: Provided, That persons performing such activities must identify in their business records the timber harvest operation of which their work is a part.
2. Mining and quarrying operations, including the activities incidental to the preparation of the products for market, such as screening, sorting, washing tin, crushing, etc.
3. Fishing operations, including the taking of any fish, or the taking, cultivating, or raising, in fresh or salt water, of fish, shellfish, or other sea or inland water foods or products (whether on publicly or privately owned beds, and whether planted and cultivated or not) for sale or commercial use. It includes the removal of the meat from the shell, and the cleaning and icing of fish or sea products by the person catching or taking them. It does not include cultivating or raising fish entirely within confined rearing areas under RCW 82.04.100.
4. ~~Construction of logging roads on federal or state land in connection with timber contracts, whether as an extractor or extractor for hire.~~

BUSINESS AND OCCUPATION TAX

EXTRACTING-LOCAL SALES. Persons who extract products in this state and sell the same at retail in this state are subject to the business and occupation tax under the classification Retailing and those who sell such products at wholesale in this state are taxable under the classification Wholesaling-All Other. Persons taxable under the classification Retailing and Wholesaling-All Others are not taxable under the classification Extracting with respect to the extracting of products so sold within this state.

WAC-458-20-
135
(cont'd) EXTRACTING NATURAL PRODUCTS

EXTRACTING-INTERSTATE OR FOREIGN SALES. Persons who extract products in this state and sell the same in interstate or foreign commerce are taxable under the classification Extracting upon the value of the products so sold, and are not taxable under Retailing or Wholesaling-All Others in respect to such sales.

EXTRACTING-FOR COMMERCIAL USE. Persons who extract products in this state and use the same as raw materials or ingredients of articles which they manufacture for sale are not taxable under Extracting. (For tax liability of such persons on the sale of manufactured products see WAC-458-20-136. Manufacturing, Processing for Hire, Fabricating.)

Persons who extract products in this state for any other commercial or industrial use are taxable under Extracting on the value of products extracted and so used. (See WAC-458-20-134 for definition of commercial or industrial use.)

EXTRACTING FOR OTHERS. Persons performing under contract, either as prime or subcontractors, the necessary labor or mechanical services for others who are engaged in the business as extractors, are taxable under the Service classification of the business and occupation tax upon their gross income from such service. If the contract includes the hauling of the products extracted over public roads, such persons are also taxable under the Service classification upon that portion of their gross income properly attributable to such hauling. However, the hauling for hire of logs or other forest products exclusively upon private roads is taxable under the Service classification of the business and occupation tax upon the gross income received from such hauling.

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DEFINITIONS

"The term 'to manufacture' embraces all activities of a commercial or industrial nature wherein labor skill is applied, by hand or machinery, to materials so that as a result thereof a new, different or useful substance or article of tangible personal property is produced for sale or commercial or industrial use, and shall include the production or fabrication of special made or custom made articles." (RCW 82.04.120.) It means the business of producing articles for sale, or for commercial or industrial use from raw materials or prepared materials by giving these matters new forms, qualities, properties, or combinations. It includes such activities as making, fabricating, processing, refining, mixing, slaughtering, packing, curing, aging, canning, etc. It includes also the preparing, packaging and freezing of fresh fruits, vegetables, fish, meats and other food products, the making of custom made suits, dresses, and coats, and also awnings, blinds, boats, curtains, draperies, rugs, and tanks, and other articles constructed or made to order. ~~It also includes the generation or production of electrical energy for resale or consumption outside the State.~~

The word "manufacturer" means every person who, from ~~his~~ the person's own materials or ingredients manufactures for sale, or for commercial or industrial use any articles, substance or commodity either: 1. ~~Directly~~, or 2. ~~By~~ contracting with others for the necessary labor or mechanical services.

However, a nonresident of the State of Washington who owns materials processed for hire in this state is not deemed to be a manufacturer because of such processing. Further, any owner of materials from which a nuclear fuel assembly is fabricated in this state by a processor for hire is also not deemed to be a manufacturer because of such processing.

The term "to manufacture" does not include activities which consist of cutting, grading, or ice glazing of seafood which has been cooked, frozen, or canned outside this state; the mere cleaning and freezing of whole fish; or the repairing and reconditioning of tangible personal property for others.

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(Cont'd)

The term "processing for hire" means the performance of labor and mechanical services upon materials belonging to others so that as a result a new, different and useful article of tangible personal property is produced for sale or commercial or industrial use. Thus, a processor for hire is any person who would be a manufacturer if ~~he~~ that person were performing the labor and mechanical services upon his that person's own materials.

BUSINESS AND OCCUPATION TAX

~~MANUFACTURING-LOCAL SALES.~~ Person who manufacture products in this state and sell the same at retail in this state are subject to the business and occupation tax under the classification Retailing and those who sell such products at wholesale in this state are taxable under the classification Wholesaling-All Others. Persons taxable under the classification Retailing and Wholesaling-All Others are not taxable under the classification Manufacturing with respect to the manufacturing of products so sold within this state.

~~MANUFACTURING-INTERSTATE OR FOREIGN SALES.~~ Persons who manufacture products in this state and sell the same in interstate or foreign commerce are taxable under the classification Manufacturing upon the value of the products so sold, and are not taxable under Retailing or Wholesaling-All Others in respect to such sales. ~~The generation or production of electrical energy for resale or consumption outside the state is subject to tax under the Manufacturing classification.~~

MANUFACTURING FOR COMMERCIAL USE. Persons who manufacture products in this state for their own commercial or industrial use are taxable under the classification Manufacturing on the value of the products manufactured and used.
(See WAC-458-20-134 for definition of commercial or industrial use.)

PROCESSING FOR HIRE. Persons processing for hire for consumers or for persons other than consumers are taxable under the Manufacturing classification upon the total charge made therefor.

MATERIALS FURNISHED IN PART BY CUSTOMER. In some instances, the person furnishing the labor and mechanical services undertakes to produce a new article, substance, or commodity from materials or ingredients furnished in part by ~~him~~ them and in part by the customer. In such instances, tax liability is as follows:

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(Cont'd)

1.(a) The person furnishing the labor and mechanical services will be presumed to be the manufacturer if the value of the materials or ingredients furnished by ~~him~~ them is equal to or exceeds 20% of the total value of all materials or ingredients which become a part of the finished product.

2.(b) If the persons furnishing the labor and mechanical services furnishes materials constituting less than 20% of the value of all of the materials which become a part of the finished product, such person will be presumed to be processing for hire. The person for whom the work is performed is the manufacturer in that situation, and will be taxable as such.

(c) In cases where the person furnishing the labor and mechanical services supplies, sells, or furnishes to the customer, before processing, 20% or more in value of the materials from which the finished product is made, the person furnishing the labor and mechanical services will be deemed to be the owner of the materials and taxable as a manufacturer.

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WAC-458-20- ARTICLES MANUFACTURED AND INSTALLED
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Persons engaged in the business of manufacturing in this state boilers, cabinets and mill work, cement blocks and pipes, conduits, heating equipment, lighting fixtures, sheet metal articles, venetian blinds, window drapes and shades, or other articles, and who also sell and install such articles after manufacture, are taxable as follows:

BUSINESS AND OCCUPATION TAX

Taxable under the Retailing classification in respect to the total charge for selling and installing when for consumers.

Taxable under the Wholesaling classification in respect to the total charge for selling and installing when for persons other than consumers.

Persons who manufacture articles in this state and install the same for customers in other states are taxable under the Manufacturing classification on the value (at the place of manufacture) of the article so installed.

Persons who manufacture articles outside this state and install the same for consumers in this state are taxable under the Retailing classification upon the total charge made therefor, irrespective of whether or not a segregation is made between the charge for the article manufactured and the charge for installing the same.

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WAC-458-20-
138 PERSONAL SERVICES RENDERED TO OTHERS

The term "personal services," as used herein, refers generally to the activity of rendering services as distinct from making sales of tangible personal property or of services which have been defined in the law as "sales" or "sales at retail". (See RCW 82.04.040 and 82.04.050.)

The following are illustrative of persons performing personal services which are within the scope of this rule: attorneys, doctors, dentists, architects, engineers, public accountants, public stenographers, barbers, beauty shop operators. (See also WAC-458-20-224.)

BUSINESS AND OCCUPATION TAX

Persons engaged in the business of rendering personal services to others are taxable under the Service and Other Activities classification upon the gross income of such business.

There must be included within gross amounts reported for tax all fees for services rendered and all charges recovered for expenses incurred in connection therewith, such as transportation costs, hotel, restaurant, telephone and telegraph charges, etc.

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WAC-458-20-139 TRADE SHOPS: PRINTING PLATE MAKERS, TYPESETTERS AND TRADE BINDERIES

(Note: This rule covers all the material previously included in WAC-458-20-139 and 146.)

The term "printing plate makers" includes, among others, photoengravers, electrotypers, stereotypers, and lithographic plate makers.

BUSINESS AND OCCUPATION TAX

Printing plate makers, typesetters and trade binderies (referred to in the trade as "trade shops") are primarily engaged in the business of altering or improving tangible personal property owned by them for sale or altering or improving tangible personal property owned by their customers. In either case the gross proceeds (including the value of any property exchanged by the customer in kind) from sales of, or services rendered to, plates, mats, engravings, type, etc., which are delivered in this state are taxable under Retailing if the sale is to a "consumer" or Wholesaling-All Others if the sale is to one who will resell the property in the regular course of business without intervening "use". Neither of these classifications is applicable however, if the article sold is delivered to an out-of-state customer at an out-of-state point or if an article is produced for commercial or industrial use (See WAC-458-20-134). In these cases, tax is due under the Manufacturing classification on the "value of products."

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BUSINESS AND OCCUPATION TAX

RETAILING. The gross proceeds of all sales taxable under the retail sales tax are taxable under the Retailing classification.

WHOLESALING. Taxable under the Wholesaling classification upon the gross proceeds from sales for resale.

MANUFACTURING. Photofinishers who produce negatives, prints, or slides in Washington and who transfer or deliver such articles to points outside this state are subject to business tax under the Manufacturing classification upon the value of products (See WAC-458-20-112) and are not subject to tax under the Retailing or Wholesaling classification.

PROCESSING FOR HIRE. Photofinishers who develop film for others and who make delivery of the film to points outside the state are subject to business tax under the Manufacturing classification upon the total charge for the work done. It is immaterial that the customers are located outside the state or that the film was sent in from outside the state for processing.

SERVICE. Taxable under the Service and Other Activities classification upon gross income from sales to publishers of newspapers, magazines and other publications of the right to publish photographs.

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The phrase "duplicating industry" includes activities involving photostating, blueprinting, xeroxing, and other reproduction processes.

BUSINESS AND OCCUPATION TAX

Duplicators are taxable under the Retailing classification upon the gross proceeds received from sales of photostats, blueprints, copies, etc., to consumers, whether the tangible personal property on which the work is recorded is owned by the duplicator or customer.

The Wholesaling-All Others classification applies to sales for resale in the regular course of the purchaser's business.

Neither of these classifications is applicable, however, if the article sold is delivered to an out-of-state customer at an out-of-state point or if an article is produced for commercial or industrial use (See WAC-458-20-134. In these cases tax is due under the Manufacturing classification on the "value of products".

Mailing bureaus mail material for the publishing industry and also mail folders, bulletins, form letters, advertising publications, flyers, and similar material for other customers. As part of these services, the bureaus also label, fold, enclose and seal. All of these activities come within the definition of "sale at retail" (RCW 82.04.050) as constituting "labor and services rendered in respect to ...the...altering, imprinting or improving of tangible personal property of or for consumers."

The gross proceeds received by mailing bureaus from charges made to consumers, whether such charges are itemized or lump sum, are taxable under the Retailing classification. The gross proceeds are taxable under the Wholesaling-All Other classification where charges (lump sum or itemized) are for tangible personal property resold as such to the purchaser or for services rendered to tangible personal property which becomes a component of an article for resale in the regular course of the purchaser's business.

Where a mailing bureau purchases stamps, government postals or stamped envelopes for a customer and the customer is charged therefor, the amount of the postage may be deducted from the measure of the business and occupation tax.

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BUSINESS AND OCCUPATION TAX

PRINTING AND PUBLISHING. Publishers of newspapers, magazines and periodicals are taxable under the Printing and Publishing classification upon the gross income derived from the publishing business.

Persons who both print and publish books, music, circulars, etc., or any other item, are likewise taxable under the Printing and Publishing classification. However, persons, other than publishers of newspapers, magazines or periodicals, who publish such things and do not print the same, are taxable under either the Wholesaling or Retailing classification, measured by gross sales, and taxable under the Service classification, measured by the gross income received from advertising.

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DEFINITION

The phrase "printing industry" includes letterpress, offset-lithography, and gravure processes as well as multigraph, mimeograph, autotyping, addressographing and similar activities.

BUSINESS AND OCCUPATION TAX

Printers are subject to the business and occupation tax under the Printing and Publishing classification upon the gross income of the business.

Where stamped envelopes or government postals are purchased and printed for customers or where stamps are provided, the amount of the postage may be deducted from the total charge to the customer in determining the selling price for business tax.

COMMISSIONS AND DISCOUNTS. There is a general trade practice in the printing industry of making allowances to advertising agencies of a certain percentage of the gross charge made for printed matter ordered by the agency either in its own name or in the name of the advertiser. This allowance may be a "commission" or may be a "discount."

A "commission" paid by a seller constitutes an expense of doing business and is not deductible from the measure of tax under business and occupation tax. On the other hand, a "discount" is a deduction from an established selling price allowed to buyers, and a bona fide discount is deductible.

In order that there may be a definite understanding, printers, advertising agencies and advertisers are advised that tax liability in such cases is as follows:

1. The allowance taken by an advertising agency will be deductible as a discount in the computation of the printer's liability only in the event that the printer bills the charge on a net basis; i.e., less the discount.
2. Where the printer bills the gross charge to the agency, no deduction will be allowed, irrespective of the fact that in payment of the account the printer actually receives from the agency the net amount only; i.e., the gross billing, less the commission retained by the agency. In all cases the commission received is taxable to the agency.

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BUSINESS AND OCCUPATION TAX

Effective March 1, 1970, the legislature repealed RCW 82.04.400 which exempted from the business and occupation tax the gross income of national banks, states banks, mutual savings banks, savings and loan associations and certain other financial institutions. Accordingly, the gross income or gross sales of such institutions shall become subject to the business and occupation tax according to the following general principles and chapter 458-28 20 WAC adopted by the Department of Revenue pursuant to RCW 82.14A.020.

SERVICES AND OTHER ACTIVITIES. Generally, the gross income from engaging in financial businesses is subject to the business and occupation tax under the classification Service and Other Activities. Following are examples of the types of income taxable under this classification: Interest earned (including interest on loans made to nonresidents unless the financial institution has a business location in the state of the borrower's residence which rendered the banking service), commissions earned, dividends earned, fees and carrying charges, charges for bookkeeping or data processing, safety deposit box rentals.

The term "gross income" is defined in the law as follows:

"Gross income of the business" means the value proceeding or accruing by reason of the transaction of the business engaged in and includes gross proceeds of sales, compensation for the rendition of services, gains realized from trading in stocks, bonds, or other evidences of indebtedness, interest, discount, rents, royalties, fees, commissions, dividends, and other emoluments however designated, all without any deduction on account of the cost of tangible property sold, the cost of materials used, labor costs, interest, discount, delivery costs, taxes, or any other expense whatsoever paid or accrued and without any deduction on account of losses.

The law allows certain deductions from gross income to arrive at the taxable amount (the amount upon which the business and occupation tax is computed). Deductible gross income should be included in the gross amount then deducted and explained on the form. The deductions generally applicable to financial businesses include the following:

1. Dividends received by a parent from its subsidiary corporation (RCW 82.04.4281).
2. Interest received on investments or loans primarily secured by first mortgages or trust deeds on nontransient residential properties. (See WAC-458-20-166 for definition of "transient.") (RCW 82.04.4291).

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(Cont'd)

3. Interest received on obligations of the State of Washington, its political subdivisions, and municipal corporations organized pursuant to the laws thereof. (RCW 82.04.4292). A deduction may also be taken for interest received on direct obligations of the Federal government, but not for interest attributable to loans or other financial obligations on which the Federal government is merely a guarantor or insurer.

4. Gross proceeds from sales or rentals or real estate (RCW 82.04.390). These amounts may be entirely excluded from the gross income reported and need not be shown on the return as a deduction.

BRANCH LOCATIONS, DIVISION OF INCOME. Financial institutions having more than one place of business shall divide total taxable gross income so as to attribute taxable income to each location in the ratio of total interest earned (whether taxable or not) on loans originated at each location during the period covered by the tax return. The location at which a loan is originated is the place of business of the financial institution at which the customer deals with the financial institution to obtain the loan. Financial institutions having time or demand deposits may compute the ratio of total deposits at each location, provided the financial institution can demonstrate that the taxable income so computed will not differ by more than \$10,000 in any one calendar year as to any one business location.

RETAILING. Sales of tangible personal property and certain services are defined as "retail sales" and are subject to the business and occupation tax under the classification Retailing.

Following are example transactions subject to the Retailing classification of the business and occupation tax: Sales of meals or confections, sales of repossessed merchandise, sales of promotional material, leases of tangible personal property, sales of check registers, coin banks, personalized checks. (Note: When the financial institution is not the seller of these items but simply takes orders as agent for the supplier, the supplier is responsible for reporting as the retail seller.)

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WAC-458-20- PUBLIC STENOGRAPHERS
147

BUSINESS AND OCCUPATION TAX

SERVICE AND OTHER BUSINESS ACTIVITIES. Public stenographers are taxable under the Service and Other Business Activities classification upon the gross income derived from the business of writing letters, corresponding or typing on a per hour or per page basis. (As to tax liability of public stenographers with respect to the business of mimeographing or other types of duplicating, other than typewriting, see WAC-458-20-141 and 144.)

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BUSINESS AND OCCUPATION TAX

Barber and beauty shops are subject to the business and occupation tax as follows:

RETAILING. Taxable under the Retailing classification upon charges for styling of wigs or hairpieces and upon the gross proceeds of sales of shoe shines and of packaged cosmetics, etc., sold apart from the rendition of personal services.

SERVICE AND OTHER BUSINESS ACTIVITIES. Taxable under the Service and Other Business Activities classification upon the gross income from charges for the rendition of personal services, such as hair cutting, shaving, shampooing, tinting, bleaching, setting and the like.

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BUSINESS AND OCCUPATION TAX

Jewelry repair shops are subject to the business and occupation tax, as follows:

RETAILING. Taxable under the Retailing classification upon the gross proceeds of sales from cleaning and repair services for consumers and from the sale of watches, clocks, etc.

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BUSINESS AND OCCUPATION TAX

RETAILING. Taxable under the Retailing classification upon gross proceeds of sales of eye glasses, regular or contact lenses, frames, springs, bows, etc., and upon charges made for the repair or replacement thereof. In case a lump sum or single charge is made to a customer or patient for an examination or refraction and the furnishing of glasses, the total charge so made must be included within the gross proceeds of sales.

SERVICE AND OTHER BUSINESS ACTIVITIES. Taxable under the Service and Other Business Activities classification upon the gross income from charges made for examinations and refractions and upon fees for fitting or adjustment of glasses or contact lenses when such charges are accounted for and billed separate and apart from the selling price of eye glasses or lenses to the patient.

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WAC-458-20- DENTISTS, DENTAL LABORATORIES AND PHYSICIANS
151

BUSINESS AND OCCUPATION TAX

Dentists, dental laboratories and physicians are subject to the business and occupation tax as follows:

SERVICE AND OTHER BUSINESS ACTIVITIES. Taxable under the Service and Other Business Activities classification upon the gross income from charges for the rendition of professional services.

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BUSINESS AND OCCUPATION TAX

Shoe repairmen and shoe shiners are subject to the business and occupation tax as follows:

RETAILING. Taxable under Retailing classification upon the gross proceeds of sales from the rendition of services, and from sales of tangible personal property.

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Funeral directors commonly quote a lump sum price for a standard funeral service, which includes the furnishing of a casket, professional services, care of remains, funeral coach, floral car and the securing of permits.

BUSINESS AND OCCUPATION TAX

RETAILING. The gross amount is taxable under the Retailing classification of the business and occupation tax except that there may be deducted, for purposes of the business tax only, amounts received as reimbursement for expenditures for goods or services supplied by others who are not persons employed by, affiliated, or associated with the funeral home, when such amounts were advanced by the funeral home as an accommodation to the person paying for a funeral; but this deduction is allowed only if such expenditures advanced are billed to the person paying for the funeral at the exact amount of the expenditure advanced and such amounts are separately itemized in the billing statement to such person.

SERVICE AND OTHER BUSINESS ACTIVITIES. That portion of the gross income derived from engaging in business as a funeral director which is not taxable under the Retailing classification is taxable as Service and Other Business Activities.

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BUSINESS AND OCCUPATION TAX

RETAILING. The gross proceeds derived from the sale of tangible personal property are taxable under the Retailing classification.

SERVICE AND OTHER BUSINESS ACTIVITIES. Income derived from rendition of interment services is taxable under the Service and Other Business Activities classification. Sales or transfers of plots, crypts, and niches for interment of human remains, irrespective of whether the document of transfer is called a deed or certificate of ownership, are charges for the right of interment, an interest similar to a license to use real estate, and the entire gross income therefrom is taxable under the Service and Other Activities classification without any deduction for amounts set aside to funds for perpetual care.

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~~Persons rendering accounting, data processing information or computer services and persons who manufacture, develop, process, or sell information or computer programs are subject taxable upon gross income under to the Service and Other Bbusiness Activities classification and occupation taxes as explained in this rule.~~

~~The gross income of such businesses is the total of all fees received or charges made, including periodic service charges for audits or bookkeeping, without any deduction on account of expenses of any kind (including traveling expenses) or losses. Amounts paid regularly by clients to such persons are not salaries, but rather are fees for services analogous to retainer fees.~~

DEFINITIONS

~~As used herein: the term "information services" means every business activity, process, or function by which a person transfers, transmits, or conveys data, facts, knowledge, procedures, and the like to any user of such information through any tangible or intangible medium. The term does not include transfers of tangible personal property such as computer hardware or standard prewritten software programs. Neither does the term include telephone service defined under RCW 82.04.065 and WAC 458-20-245.~~

~~The term "computer services" means every method of providing information services through the use of computer hardware and/or software.~~

~~*The term "computer system" means a functional unit, consisting of one or more computers and associated software, that uses common storage for all or part of the data necessary for execution of the program; executes user-written or user-designated programs; performs user-designated data manipulation; including arithmetic operations and logic operations; and that can execute programs that modify themselves during their execution.~~

~~*The term "hardware" means physical equipment used in data processing, as opposed to programs, procedures, rules, and associated documentation.~~

~~*The term "software" means programs, procedures, rules, and any associated documentation pertaining to the operation of a computer system.~~

~~The term "custom program" means software which is developed and produced by a provider exclusively for a specific user, and which is of an original, one-of-a-kind nature.~~

~~The term "standard, prewritten program," sometimes referred to as "canned" or "off-the-shelf" software, means software which is not originally developed and produced for the user.~~

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The term "provider" means the person who makes available information and computer services to a user.

The term "user" means a person from whom information and/or computer services are provided as a consumer.

DISTINCTION BETWEEN SALES AND SERVICES

Liability for tax depends upon whether the subject of the sale is a product or a service. If information services, computer services or data processing services are performed, such that the only tangible personal property in the transaction is the paper or medium on which the information is printed or carried, the activity constitutes the rendering of professional services, similar to those rendered by a public accountant, architect, lawyer, etc. This includes the sales of software in connection with custom programs written to meet a particular customer's specific needs. The programs are considered to be the tangible evidence of a professional service rendered to a client.

If, on the other hand, the sale, lease, or licensing of the computer program is a sale or lease of a product, even though produced through a computer system or process, it is taxable as a retail sale. Standard, prewritten software programs do not constitute professional services rendered to meet the particular needs of specific customers, but rather, are essentially sales of articles of tangible personal property. Articles of this type are no different from a usual inventory of tangible personal property held for sale or lease and, irrespective of any incidental modifications to the program medium or its environment (e.g., adaptation to computer room configuration) to meet a particular customer's needs, the sale or lease of such standard software is a sale at retail.

BUSINESS AND OCCUPATION TAX

The terms "sale" (RCW 82.04.040) and "retail sale" (RCW 82.04.050) include any transfer of possession of tangible personal property for a consideration. This includes transfers of computer hardware and standard, prewritten software for a charge, regardless that outright ownership or title may not pass to the user, and regardless of any express or implied restrictions upon the user.

RETAILING: All sales, leases, rentals, and licenses to use tangible personal property, including computer systems and all hardware and standard, prewritten software, to users, are subject to the retailing classification of business and occupation tax measured by the gross proceeds of sales derived therefrom. (See RCW 82.04.070.)

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WHOLESALEING: When such transfers of tangible personal property as described in the previous paragraph, are for resale by the customer or client in the regular course of business, without intervening use by such persons, they are subject to wholesaling business and occupation tax measured by gross proceeds of sales.

SERVICE: Persons who charge for providing information services or computer services (other than retailing or wholesaling as defined above) are subject to the service and other activities classification of business and occupation tax measured by the gross income of such business. This includes charges for custom program development, charges for on-line information and data, and charges in the nature of royalties for the reproduction, use, and reuse of patented systems and technological components of hardware or software, whether tangible or intangible.

The tax classifications and distinctions explained above will prevail regardless of how the federal government or other tax jurisdictions may classify these transactions for other tax purposes.

INTERSTATE SALES AND SERVICES

Persons who produce computer systems, hardware, equipment, standard, prewritten software, and materials in this state and who sell lease, license, or otherwise transfer such things to buyers outside this state and deliver such things outside this state are not subject to either retailing or wholesaling business tax. Such persons are subject to the Manufacturing classification of business and occupation tax. See WAC 458-20-136. The measure of tax is the full value of the product manufactured. See WAC 458-20-112. Persons who do not themselves produce such things in this state but merely sell such things and deliver outside this state are exempt of business tax.

Providers of information or computer services in interstate commerce who are taxable under the service business tax classification are governed by the provisions of WAC 458-20-194 (doing business inside and outside the state).

*Definitions marked with an asterisk are taken from Vocabulary for Data Processing, Telecommunications, and Office Systems, IBM, seventh edition (July, 1981).

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BUSINESS AND OCCUPATION TAX

Persons engaged in the production and sale of hatching eggs or poultry for use in the production for sale of poultry or poultry products are not subject to the business and occupation tax upon the gross proceeds from such sales (RCW 82.04.410). Persons engaged in the production and sale for resale of hatching eggs or poultry are also exempt from the business and occupation tax in respect to such sales (RCW 82.04.330). The business and occupation tax is applicable to all sales of poultry or poultry products by persons other than the producer thereof.

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The word "florist" means a person engaged in the business of selling flowers and ornamental trees, shrubs or vines from an established business location, or one who peddles the same.

The word "nurseryman" means a person who grows, propagates or produces for sale upon his own lands or upon land in which he has a present right of possession, any flowers, trees, shrubs or vines.

BUSINESS AND OCCUPATION TAX

RETAILING. Florists and nurserymen are taxable under the Retailing classification upon gross sales made by them to consumers.

WHOLESALE. Florists are taxable under the Wholesaling classification upon gross sales for resale of articles which were not produced by them as nurserymen. Nurserymen are exempt from business tax with respect to sales at wholesale of articles produced by them in this state, but this exemption does not extend to the taking, cultivating, or raising of Christmas trees or timber.

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A consignee, bailee, factor, agent or auctioneer, as used in this ruling, refers to one who has either actual or constructive possession of tangible personal property, the actual ownership of of such property being in another, or one calling for bids on such property. The term "constructive possession" means possession of the power to pass title to tangible personal property of others.

BUSINESS AND OCCUPATION TAX

RETAILING AND WHOLESALING. Every consignee, bailee, factor, agent or auctioneer having either actual or constructive possession of tangible personal property, or having possession of the documents of title thereto, with power to sell such tangible personal property in his or its own name and, actually so selling, shall be deemed the seller of such tangible personal property and taxable under the retailing or wholesaling classification of the business and occupation tax, depending upon the nature of the transactions. In such case the consignor, bailor, principal or owner shall be deemed a seller of such property to the consignee, bailee, factor or auctioneer and taxable as a wholesaler with respect to such sales.

The mere fact that consignee, bailee or factor makes a sale raises a presumption that such consignee, bailee or factor actually sold in his or its own name. This presumption is controlling unless rebutted by proof satisfactory to the department of revenue.

AGENTS AND BROKERS. Any person who claims to be acting merely as agent or broker in promoting sales for a principal or in making purchases for a buyer, will have such claim recognized only when the contract or agreement between such persons clearly establishes the relationship of principal and agent and when the following conditions are complied with:

1. The books and records of the broker or agent show the transactions were made in the name and for the account of the principal, and show the name of the actual owner of the property for whom the sale was made, or the actual buyer for whom the purchase was made.
2. The books and records show the amount of gross sales, the amount of commissions and any other incidental income derived by the broker or agent from such sales.

SERVICE AND OTHER BUSINESS ACTIVITIES. Every consignee, bailee, factor, agent or auctioneer who makes a sale in the name of the actual owner, as agent of the actual owner, or who purchases as agent of the actual buyer, is taxable under the service and other business activities classification upon the gross income derived from such business.

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WAC-458-20- PERSONS BUYING OR PRODUCING WHEAT, OATS, CORN, BARLEY AND RYE AND
161 MAKING SALES THEREOF

BUSINESS AND OCCUPATION TAX

RETAILING. Taxable under the Retailing classification upon the gross proceeds from all retail sales of such products.

WHOLESALING. Persons buying manufactured or processed wheat, oats, corn, barley and rye, and selling the same at wholesale, are taxable under the Wholesaling classification upon their gross proceeds of sales. The tax imposed under this classification does not apply to persons producing wheat, oats, corn, barley and rye and selling the same at wholesale.

WHEAT, OATS, CORN, BARLEY AND RYE. Persons buying wheat, oats, corn, barley and rye, and selling the same at wholesale as such and not as a manufactured or processed product thereof, are taxable under the Wheat, Oats, Corn, Barley and Rye Wholesaling Grain classification upon their gross proceeds of sales.

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With respect to stockbrokers and security houses, "gross income of the business" means the total of gross income from interest, gross income from commissions, gross income from trading and gross income from all other sources: PROVIDED, That:

1. Gross income from each account is to be computed separately and on a monthly basis;
2. Loss sustained upon any earnings account may not be deducted from or offset against gross income upon any other account, nor may be a loss sustained upon any earnings account during any month be deducted from the gross income upon any account for any other month;
3. No deductions are allowed on account of salaries or commissions paid to employees or salesmen, rent, or any other overhead or operating expenses paid or incurred, or on account of losses other than under "2" above;
4. No deductions are allowed from commissions received from sales of securities which are delivered to buyers outside the State of Washington.

GROSS INCOME FROM INTEREST. Gross income from interest includes all interest received upon bonds or other securities held for sale or otherwise, excepting only direct obligations of the Federal government and of the State of Washington. No deduction is allowed for interest paid out even though such interest may have been paid to banks, clearing houses or others upon amounts borrowed to carry debit balances of customers' margin accounts.

Interest accrued upon bonds or other securities sold shall be included in gross income where such interest is carried in an interest account and not as part of the selling price. Conversely, interest accrued upon bonds or other securities at the time of purchase may be deducted from gross income where such interest is carried in an interest account and not as a part of the purchase price.

GROSS INCOME FROM COMMISSIONS. Gross income from commissions is the amount received as commissions upon transactions for the accounts of customers over and above the amount paid to other established security houses associated in such transactions. PROVIDED, HOWEVER, That no deduction or offset is allowed on account of salaries or commissions paid to salesmen or other employees.

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GROSS INCOME FROM TRADING. Gross income from trading is the amount received from the sale of stocks, bonds and other securities over and above the cost or purchase price of such stocks, bonds and other securities. In the case of short sales gross earnings shall be reported in the month during which the transaction is closed, that is, when the purchase is made to cover such sales or the short sale contract is forfeited.

GROSS INCOME FROM ALL OTHER SOURCES. Gross income from all other sources includes all income received by the taxpayer, other than from interest, commissions and trading, such as dividends upon stocks, fees for examinations, fees for reorganizations, etc.

SERVICES INSIDE AND OUTSIDE THE STATE-APPORTIONMENT. Stockbrokers and security houses rendering services and maintaining places of business both inside and outside the state may, in computing tax, apportion to this state that portion of the gross income which is derived from services rendered or activities conducted inside this state. Where such apportionment cannot be made accurately by separate accounting methods, the taxpayer shall apportion to this state that portion of his total income which the cost of doing business inside the state bears to the total cost of doing business both inside and outside the state.

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The words "broker," and "solicitor," as used herein mean respectively, a person licensed as such under the provisions of Chapter 48.17 RCW.

BUSINESS AND OCCUPATION TAX

Every person acting in the capacity of broker or solicitor is presumed to be engaging in business and is taxable under the Service and Other Business Activities classification upon the gross income of the business unless such person is a bona fide employee. The burden is upon such person to establish the fact of his status as an employee. (See WAC-458-20-105-Employees.) Gross income of the business is determined by the amount of gross commissions received or retained, not by the gross premiums paid by the insured.

The term "gross income of the business" includes gross income from commissions, fees or other emoluments however designated which the broker or solicitor receives or becomes entitled to receive but does not include amounts held in trust for the insurer or the client. (See also WAC-458-20-111-Advances and Reimbursements.)

No deduction is allowed for commissions, fees, or salaries paid to other brokers or solicitors nor for other expenses of doing business.

Where an insurance association, licensed as a broker or solicitor negotiates with a public body for the placement of its insurance coverage and arranges for the servicing of such insurance through a broker or solicitor and there is an agreement between the association and the broker or solicitor and the prospective insured that the commission on the policy premium will be shared, the entity receiving the commission need only include in gross income its share of the commission. It need not include in gross income the portion of commission earned by the other broker and/or solicitor nor need the other broker and/or solicitor include in gross income the portion retained by the entity which first receives payment.

(For tax liability of insurance adjusters, see WAC-458-20-212.)

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The term "laundry or dry cleaning business" applies to (1) the business of operating a plant or establishment for laundering, cleaning, dyeing, pressing and incidentally repairing such articles as clothing, linens, bedding, towels, curtains, drapes, rugs, etc.; (2) so-called "laundrettes," "washettes", "cleanettes" or similar self service businesses wherein laundry or dry cleaning facilities are provided for hire; it includes the operation of both coin and noncoin operated equipment, and (3) one who, under his own name, operates a place of business or pickup and delivery system for the collection and distribution of such articles, holding himself out to the public as performing such services, even though such person owns no plant and contracts with another for a part or all of the services rendered. This does not apply, however, to a person holding himself out as an agent for a particular laundry or dry cleaning plant.

The term "laundry agent" applies to any person who, under his own name, operates a place of business or pickup and delivery system for the collection and distribution of articles to be laundered, cleaned, dyed or pressed, holding himself out as agent for some particular establishment and acting as an independent contractor rather than as an employee.

The term "laundry or linen supply service" means the business of contracting to provide customers with a supply of clean linen, uniforms, towels, etc., whether ownership of such property is in the person operating the laundry or linen supply service or in the customer. Such service may include the providing of cabinets and other toilet equipment, paper towels, soap and similar consumable supplies.

BUSINESS AND OCCUPATION TAX

RETAILING. Persons operating laundry or dry cleaning businesses, including self service or coin operated laundry or dry cleaning businesses, but not including coin operated laundry facilities when such facilities are situated in an apartment house, hotel, motel, rooming house or trailer camp for the exclusive use of the tenants, are taxable under the Retailing classification upon the gross proceeds of sales without any deduction on account of commissions allowed or amounts paid to another for the performance of all or part of the laundry or dry cleaning service rendered.

Persons operating self service or coin operated laundries or dry cleaning businesses are taxable under the Retailing classification upon the gross proceeds of sales of starch, soap, blueing or any other article sold to customers.

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(Cont'd) Laundries in Washington which provide linen supply services are making retail sales in this state even though their customers may be located outside this state. Gross income from such services is subject to tax because the charge is for laundering which takes place in this state, rather than being a true rental of property (uniforms, linen, etc.) to nonresidents.

WHOLESALE. Tax is due under the Wholesaling classification upon the gross proceeds of sales derived from laundry or dry cleaning services rendered for other laundry and dry cleaning establishments.

SERVICE AND OTHER ACTIVITIES. Persons operating coin operated laundry facilities which are situated in an apartment house, hotel, motel, rooming house or trailer camp for the exclusive use of the tenants are taxable under Service and Other Activities on the gross income from such facilities. Laundry agents are taxable under this classification upon the gross commissions received by them. Nonprofit associations composed exclusively of nonprofit hospitals are taxable under the Service and Other Activities classification upon laundry services to such members.

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WAC-458-20- HOTELS, MOTELS, BOARDING HOUSES, ROOMING HOUSES, RESORTS, SUMMER
166 CAMPS, TRAILER CAMPS, ETC.

A hotel, motel, boarding house, rooming house, apartment hotel, resort lodge, auto or tourist camp, and bunkhouse, as used in this ruling, includes all establishments which are held out to the public as an inn, hotel, public lodging house, or place where sleeping accommodations may be obtained, whether with or without meals or facilities for preparing the same. The foregoing does not include establishments in the business of renting real estate, such as apartments, nor does it include hospitals, sanitariums, nursing homes, rest homes, and similar institutions. Further, the foregoing does not include private lodging houses, dormitories, bunkhouses, etc., operated by or on behalf of business and industrial firms solely for the accommodation of employees of such firms, and which are not held out to the public as a place where sleeping accommodations may be obtained. The terms do not include guest ranches or summer camps which, in addition to supplying meals and lodging, offer special recreation facilities and instruction in sports, boating, riding, outdoor living, etc.

A boarding house, as used in this ruling, is an establishment selling meals on the average to five or more persons, exclusive of members of the immediate family. Where meals are furnished to less than five persons, exclusive of members of the immediate family, the establishment will not be considered as engaging in the business of operating a boarding house.

A trailer camp as used in this ruling, is an establishment making a charge for the rental of space to transients for locating or parking house trailers, campers, mobile homes, tents and the like which provide sleeping or living accommodations for the occupants. Additional charges for utility services will be deemed part of the charge made for the rental.

It will be presumed that the above establishments are conferring a license to use real estate, as distinguished from a rental of real estate, where the occupant is a transient. Conversely, where the occupant who receives lodging is or has become a nontransient, it will be conclusively presumed that the occupancy is under a rental or lease of real property.

Where lodging is furnished a transient, as that term is hereinafter defined, the charge therefor is subject to the business and occupation tax under the Retailing classification. Where the lodging is furnished a nontransient, the transaction is deemed a rental of real estate and is exempt from tax.

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The term "transient" as used in this rule means: Any guest, resident, or other occupant to whom lodging and other services are furnished under a license to use real property and who does not continuously occupy the premises for a period of one month. Where such occupant remains in continuous occupancy for more than one month, he shall be deemed a transient as to his first month of occupancy, unless he has contracted in advance to remain one month. In cases where such person has so contracted in advance and does so remain in continuous occupancy for one month, he will be deemed a nontransient from the start of his occupancy.

The tax liability of hotels, motels, boarding houses, rooming houses, resorts, summer camps, trailer camps, etc., is as follows:

BUSINESS AND OCCUPATION TAX

RETAILING. Amounts derived from the charge made to transients for the furnishing of lodging; charges for such services as the rental of radio and television sets and the rental of rooms, space and facilities not for lodging, such as ballrooms, display rooms, meeting rooms, etc., and including automobile parking or storage; also amounts derived from the sale of tangible personal property at retail are taxable under this classification.

SERVICE AND OTHER BUSINESS ACTIVITIES. Taxable under this classification are amounts derived from the rental of sleeping accommodations by private lodging houses, and by dormitories, bunkhouses, etc., operated by or on behalf of business and industrial firms and which are not held out to the public as a place where sleeping accommodations may be obtained; commissions received from acting as laundry agent for guests (see WAC-458-20-165) and commissions received for the use of telephone facilities. Summer camps, guest ranches and similar establishments making an unsegregated charge for meals, lodging, instruction and the use of recreational facilities must report the gross income from such charges under this classification. This classification is also applicable to gross income from charges for the use of coin operated laundry facilities when such facilities are situated in an apartment house, hotel, motel, rooming house or trailer camp for the exclusive use of the tenants. (See WAC-458-20-165 for information regarding the tax liability of laundry services generally.

Charges for lodging and related services described above are subject to tax even though they may be denominated or characterized as membership fees or dues.

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WAC-458-20-167 EDUCATIONAL INSTITUTIONS, SCHOOL DISTRICTS, STUDENTS ORGANIZATIONS,
PRIVATE SCHOOLS

As used herein: An "educational institution" means only those institutions defined as such in WAC-458-20-114; the term "private school" means all schools which are excluded from said definition.

BUSINESS AND OCCUPATION TAX

Persons operating private schools are taxable under the Service and Other Business Activities classification upon gross income derived from tuition fees, rental of rooms and equipment and other service income.

Such persons are also taxable under the Retailing classification upon gross retail sales of articles of tangible personal property sold by them, when the charge therefor is specified and is not included within the charge made for tuition.

Educational institutions, school districts and student organizations are not subject to the business and occupation tax with respect to activities directly connected with the educational program, such as operation of common dining room, sale of lab supplies etc.

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HOSPITALS AND MEDICAL CARE FACILITIES

DEFINITIONS. The term "hospital" means only institutions defined as hospitals in Chapter 70.41 RCW. The term "nursing home" means only institutions defined as nursing homes in Chapter 81.51 RCW.

BUSINESS AND OCCUPATION TAX

The gross income derived from personal and professional services of hospitals, ~~for medical services~~ nursing homes, convalescent homes, clinics, rest homes, health resorts, and similar health care institutions is subject to business and occupation tax under the Service and Other Activities classification. The Retailing business and occupation tax applies to sales by such persons of tangible personal property sold and billed separately from hospital services rendered.

~~In computing business tax liability of hospitals, there may be deducted from the measure of the tax the following:~~

- ~~1. Amounts derived as compensation for services rendered or to be rendered to patients or from sales of prescription drugs furnished as an integral part of services rendered to patients by a hospital as defined in Chapter 70.41 RCW when such hospital is operated by the United States of America or any of its instrumentalities or by the State of Washington or any of its political subdivisions.~~
- ~~2. Amounts derived as compensation for services rendered to patients or from sales of prescription drugs furnished as an integral part of services rendered to patients by a hospital as defined in Chapter 70.41 RCW when such hospital is operated as a nonprofit corporation but only if~~

DEDUCTIONS. (a) Hospitals operated by the United States or its instrumentalities or the state of Washington or its political subdivisions may deduct amounts derived as compensation for medical services to patients and sales of prescription drugs and medical supplies furnished as an integral part of such services. (See RCW 82.04.4288.)

(b) Other hospitals operated as nonprofit corporations as well as nursing homes and homes for unwed mothers operated as a religious or charitable organizations may also deduct the amounts described in subsection (a) above (See RCW 82.04.4289), provided that:

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WAC-458-20- HOSPITALS AND MEDICAL CARE FACILITIES

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No part of the net earnings received by such an institution inures, directly or indirectly, to any person other than the institution entitled to deduction hereunder; and

No deduction will be allowed under "2" ~~above~~ (a) of this sub-tion, unless written evidence ~~be~~ is submitted to the Department of Revenue showing that the hospital building is entitled to exemp-
tions from taxation under the property tax laws of this state.

~~In computing business tax liability of nursing homes and homes for unwed mothers there may be deducted from the measure of tax the following. Amounts derived as compensation for services rendered to patients by nursing homes and homes for unwed mothers operated as a religious organization but only if no part of the net earnings received by such nursing homes or homes for unwed mothers inures, directly or indirectly, to any person other than the institution entitled to deduction hereunder.~~

~~Persons operating hospitals, nursing homes, convalescent homes, clinics, rest homes, health resorts and similar institutions which are not operated as above provided are taxable under the classification Service and Other Activities upon the gross income received from personal or professional services.~~

In computing tax liability there may be deducted from gross income so much thereof as was derived from bona fide contributions, donations and endowment funds. (See WAC-458-20-114.)

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Religious, charitable, benevolent, and nonprofit service organizations are subject to the excise taxes imposed by the Revenue Act of 1935 with the following exceptions only:

Religious, charitable, benevolent, and nonprofit service organizations serving meals for fund raising purposes are not engaged in the business of making sales at retail and are not required to pay the business and occupation tax, unless such meals are served more frequently than once every two weeks. Religious, charitable, benevolent, and nonprofit service organizations conducting bazaars or rummage sales who are not generally engaged in the business of making sales at retail are not required to pay the business and occupation tax where such bazaars or rummage sales are conducted no more than twice per year and do not extend over a period of more than two days each, if the gross receipts from each such bazaar or rummage sale is \$1,000 or less. Similarly, when such organizations make retail sales in the course of annual fundraising drives, or make such sales through concessions operated intermittently and for short periods of time for the support of various benevolent, athletic, recreational, or cultural programs, the business and occupation tax need not be accounted for.

In every case where such organizations conduct business activities other than as outlined above, the business and occupation tax is fully applicable to the gross sales made.

SHELTERED WORKSHOPS. The gross income received by nonprofit organizations from the operation of "Sheltered workshops" is exempt from the Business and Occupation tax. "Sheltered workshops" is defined by the law to mean "rehabilitation facilities, or that part of rehabilitation facilities, where any manufacture or handiwork is carried on and which is operated for the primary purpose of (1) providing gainful employment or rehabilitation services to the handicapped as an interim step in the rehabilitation process for those who cannot be readily absorbed in the competitive labor market or during such time as employment opportunities for them in the competitive labor market do not exist; or (2) providing evaluation and work adjustment services for handicapped individuals."

HEALTH OR SOCIAL WELFARE SERVICES. In computing business tax there may be deducted amounts received from the United States or any instrumentality thereof or from the state of Washington or any municipal corporation or political subdivision thereof as compensation for, or to support, health or social welfare services rendered by a health or social welfare organization or by a municipal corporation or political subdivision.

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The term "health or social welfare organization" means an organization which renders health or social welfare services as defined below, which is a not-for-profit corporation under Chapter 24.03 RCW and which is managed by a governing board of not less than eight individuals none of whom is a paid employee of the organization or which is a corporation sole under Chapter 24.12 RCW. In addition a corporation in order to be exempt under RCW 82.04 .4297 shall satisfy the following conditions:

- (a) No part of its income may be paid directly or indirectly to its members, stockholders, officers, directors or trustees except in the form of services rendered by the corporation in accordance with its purposes and bylaws;
- (b) Salary or compensation paid to its officers and executives must be only for actual services rendered, and at levels comparable to the salary or compensation of like positions within the public service of the state;
- (c) Assets of the corporation must be irrevocably dedicated to the activities for which the exemption is granted and, on the liquidation, dissolution, or abandonment by the corporation, may not inure directly or indirectly to the benefit of any member or individual except a nonprofit organization, association, or corporation which also would be entitled to the exemption;
- (d) The corporation must be duly licensed or certified where licensing or certification is required by law or regulation;
- (e) The amounts received qualifying for exemption must be used for the activities for which the exemption is granted;
- (f) Services must be available regardless of race, color, national origin, or ancestry; and
- (g) The director of revenue shall have access to its books in order to determine whether the corporation is entitled to this exemption.

The term "health or social welfare services" includes and is limited to:

- (a) Mental health, drug, or alcoholism counseling or treatment;
- (b) Family counseling;
- (c) Health care services;
- (d) Therapeutic, diagnostic, rehabilitative, or restorative services for the care of the sick, aged, or physically, developmentally, or emotionally-disabled individuals;
- (e) Activities which are for the purpose of preventing or ameliorating juvenile delinquency or child abuse, including recreational activities for those purposes;
- (f) Care of orphans or foster children;
- (g) Day care of children;
- (h) Employment development, training and placement; and
- (i) Legal services to the indigent.

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- (j) Weatherization assistance or minor home repair for low-income homeowners or renters;
- (k) Assistance to low-income homeowners and renters to offset the cost of home heating energy, through direct benefits to eligible households or to fuel vendors on behalf of eligible households; and
- (l) Community services to low-income individuals, families, and groups, which are designed to have a measurable and potentially major impact on causes of poverty in communities of the state.

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CONSTRUCTING AND REPAIRING OF NEW OR EXISTING BUILDINGS OR OTHER
STRUCTURES UPON REAL PROPERTY

DEFINITIONS

As used herein: The term "private contractor" means a person engaged in business of performing for consumers, the constructing, repairing, decorating or improving of new or existing buildings or other structures under, upon or above real property, either for the entire work or for a specific portion thereof. The term includes persons who rent or lease equipment to property owners for use in respect to constructing, repairing, etc., buildings or structures upon such property, when the equipment is operated by the lessor.

The word "subcontractor" means a person engaged in the business of performing a similar service for persons other than consumers, either for the entire work or for a specific portion thereof. The term includes persons who rent or lease equipment to prime contractors or subcontractors for use in respect to constructing, repairing, etc., when such equipment is operated by the lessor. When equipment or other tangible personal property is rented without an operator to contractors, subcontractors or others, the transaction is a sale at retail. (see RCW 82.04.040 and 82.04.050).

The terms "prime contractor" and "subcontractor" include persons performing labor and services in respect to the moving of earth or clearing of land, cleaning, fumigating, razing, or moving of existing buildings or structures even though such services may not be done in connection with a contract involving the constructing, repairing, or altering of a new or existing building or structure. The terms also include persons constructing streets, roads, highways, etc., owned by the state of Washington.

The term "buildings or other structures" means everything artificially built up or composed of parts joined together in some definite manner and attached to real property. It includes not only buildings in the general and ordinary sense, but also tanks, fences, conduits, culverts, railroad tracks, tunnels, overhead and underground transmission systems, monuments, retaining walls, piling and privately owned bridges, trestles, parking lots, and pavements for foot or vehicular traffic, etc.

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The term "constructing, repairing, decorating or improving of new or existing buildings or other structures," in addition to its ordinary meaning, includes the installing or attaching of any article of tangible personal property in or to real property, whether or not such personal property becomes a part of the realty by virtue of installation, the clearing of land and the moving of earth, and the construction of streets, roads, highways, etc., owned by the state of Washington. The term includes the sale of or charge made for all service activities rendered in respect to such constructing, repairing, etc., regardless of whether or not such services are otherwise defined as "sale" by RCW 82.04.040 or "sales at retail" by RCW 82.04.050. Hence, for example, such service charges as engineering fees, architectural fees or supervisory fees are within the term when the services are included within a contract for the construction of a building or structure.

The fact that the charge for such services may be shown separately in bid, contract or specifications does not establish the charge as a separate item in computing tax liability.

SPECULATIVE BUILDERS. As used herein, the term "speculative builder" means one who constructs buildings for sale or rental upon real estate owned by him. The attributes of ownership of real estate for purposes of this rule include but are not limited to the following: 1. The intentions of the parties in the transaction under which the land was acquired; 2. the person who paid for the land; 3. the person who paid for improvements to the land; 4. the manner in which all parties, including financiers, dealt with the land. The terms "sells" or "contracts to sell" include any agreement whereby an immediate right to possession or title to the property vests in the purchaser.

Amounts derived from the sale of real estate are exempt from the business and occupation tax. (RCW 82.04.390). Consequently, the proceeds of sales by speculative builders of completed buildings are not subject to such tax.

However, when a speculative builder sells or contracts to sell property upon which he is presently constructing a building, all construction done subsequent to the date of such sale or contract constitutes a retail sale and that portion of the sales price allocable to construction done after the agreement shall be taxed accordingly. Consequently, the builder must pay business and occupation tax under the Retailing classification on that part of the sales price attributable to construction done subsequent to the agreement.

Persons, including corporations, partnerships, sole proprietorships, and joint ventures, among others who perform construction upon land owned by their corporate officers, shareholders, partners, owners, co-venturers, etc., are constructing upon land owned by others and are taxable as sellers under this rule, not as "speculative builders."

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BUSINESS AND OCCUPATION TAX

(Cont'd)

Prime contractors are taxable under the Retailing classification, and subcontractors under the Wholesaling classification upon the gross contract price.

Where no gross contract price is stated in any contract or agreement between the builder and the property owner, then the measure of business and occupation tax is the total amount of construction costs, including any charges for licenses, fees, permits, etc., required for the construction and paid by the builder.

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WAC-458-20-17001 GOVERNMENT CONTRACTING -- CONSTRUCTION, INSTALLATIONS, OR IMPROVEMENTS TO GOVERNMENT REAL PROPERTY.

Special ~~B~~business and occupation tax applications and special sales/use tax applications pertain for applies to prime and sub-contractors who perform certain construction, installation, and improvements to real property of or for the United States, its instrumentalities, or a county or city housing authority created pursuant to chapter 35.82 RCW. These specific construction activities are excluded from the definition of "sale at retail" under RCW 82.04.050. All other sales to the United States, its agencies or instrumentalities are taxable as retail sales or wholesale sales, as appropriate. See WAC 458-20-190.

The definitions of terms and general provisions contained in WAC 458-20-170 apply equally for this rule, as appropriate. In addition, the terms, "clearing land" and "moving earth" include well drilling, core drilling, and hole digging, whether or not casing materials are installed and any grading or clearing of land, including the razing of buildings or other structures.

BUSINESS AND OCCUPATION TAX

Amounts derived from constructing, repairing, decorating, or improving new or existing buildings or other structures, including installing or attaching tangible personal property therein or thereto, and clearing land or moving earth, of or for the United States, its instrumentalities, or county or city housing authorities of chapter 34.82 RCW are taxable under the government retail or wholesale classification of business and occupation tax. The measure of the tax is the gross contract price.

Government contractors who manufacture or produce any tangible personal property for their own commercial or industrial use as consumers in performing government contracting activities are subject to the manufacturing classification of business and occupation tax measured by the value of the property manufactured or produced. See also, WAC 458-20-134. The manufacturing tax applies even though the property manufactured or produced for commercial use may be subsequently incorporated into buildings or other structures under the government contract and may thereby enhance the gross contract price.

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BUILDING, REPAIRING OR IMPROVING STREETS, ROADS, ETC., WHICH ARE OWNED BY A MUNICIPAL CORPORATION OR POLITICAL SUBDIVISION OF THE STATE OR BY THE UNITED STATES AND WHICH ARE USED PRIMARILY FOR FOOT OR VEHICULAR TRAFFIC

DEFINITIONS

As used herein: The word "contractor" means a person engaged in the business of building, repairing or improving any street, place, road, highway, easement, right of way, mass public transportation terminal or parking facility, bridge, tunnel, or trestle which is owned by a municipal corporation or political subdivision of the state or by the United States and which is used or to be used primarily for foot or vehicular traffic, either as a prime contractor or as a subcontractor. It does not include persons who merely sell or deliver road materials to such contractors or to the public authority whose property is being improved. It also does not include persons who construct streets, roads, etc. owned by the state of Washington. (See WAC-458-20-170 for the tax liability of such persons.)

The term "street, place, road, highway, etc." is used in the ordinary sense that the combination of such words implies. It includes docks used primarily by ferry boats operated in connection with a street, road or highway, but does not include railroads, wharves, moorings, hallways, catwalks, or runways, aprons or taxiways for the landing, take-off or movement of airplanes within airports or landing fields; nor does it include ferry boats, even though the ferry be operated in connection with a street, road or highway. It includes roads and walks which are not open to the public generally, but which may be restricted to use by the military or by employees of a department or instrumentality of the United States.

The word "place" means only an area similar to a street or pedestrian walk, such as thoroughfares in various cities designated "places" for the purpose of preserving the continuity of street names or house numbers; generally, a street of shorter length than others.

The term "building, repairing or improving of a publicly owned street, place, road, etc." includes clearing, grading, graveling, oiling, paving and the cleaning thereof; the constructing of tunnels, guard rails, fences, walks and drainage facilities, the planting of trees, shrubs and flowers therein, the placing of street and road signs, the striping of roadways, and the painting of bridges and trestles; it also includes the mining, sorting, crushing, screening, washing and hauling of sand, gravel, and rock taken from a public pit or quarry. It also includes the constructing of road and street lighting systems, even though portions of such systems also are used for purposes other than street and road lighting; also the constructing of a drainage system in streets and roads, even though such system is also used for the carrying of sewage:

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PROVIDED, That the drainage facilities are sufficient for disposal of the normal runoff of surface waters from the particular streets and roads in which the system is constructed or an ordinance authorizing the construction of a combined sewer system is incorporated by reference in the contract and the contract or specifications clearly indicate that the system is designed and intended for the disposal of the normal runoff of surface waters from the streets and roads in which the system is constructed.

The term includes any contract for the readjustment, reconstruction or relocation of the facilities of any public, private or cooperatively owned utility or railroad in the course of building, repairing or improving a street, place, road, etc., which is owned by a municipal corporation or political subdivision of the state or by the United States, the cost of which readjustment, reconstruction, or relocation is the responsibility of the public authority whose street, place, road, etc., is being built, repaired or improved. It also includes building or repairing mass transportation facilities owned by a municipal corporation or political subdivision of the state or by the United States.

Except as provided above, the term does not include the constructing of water mains, telephone, telegraph, electrical power, or other conduits or lines in or above streets or roads, unless such power lines become a part of a street or road lighting system as aforesaid; nor does it include the constructing of sewage disposal facilities, nor the installing of sewer pipes for sanitation, unless the installation thereof is within, and a part of, a street or road drainage system.

BUSINESS AND OCCUPATION TAX

Such contractors are taxable upon their total contract price.

The business and occupation tax does not apply to the cost of or charge made for labor and services performed in respect to the mining, sorting, crushing, screening, washing, hauling, and stockpiling of sand, gravel, and rock, when such sand, gravel, or rock is taken from a pit or quarry which is owned by or leased to a county or city and such sand, gravel or rock is:

- a. stockpiled in said pit or quarry for placement on the street, road, or highway by the county or city itself using its own employees, or
- b. placed on the street, road, or highway by the county or city itself using its own employees, or
- c. sold by the county or city at actual cost to another county or city for road use.

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WAC-458-20-172 CLEARING LAND, MOVING EARTH, CLEANING, FUMIGATING, RAZING OR MOVING EXISTING BUILDINGS, AND JANITORIAL SERVICES

Persons engaged in performing well drilling, contracts for the grading or clearing of land or the moving of earth, and which do not involve the building, repairing or improving of any streets, roads, etc. which are owned by a municipal corporation or political subdivision of the state or by the United States (See WAC-458-20-171); and persons engaged in performing contracts which involve the cleaning, fumigating, razing or moving of existing buildings or structures and persons performing janitorial services are taxable as follows:

BUSINESS AND OCCUPATION TAX

Taxable under the classification Retailing upon gross income from contracts to perform such services for consumers, but excluding gross income from contracts providing solely for the performance of janitorial services the mere core drilling of or testing of soil samples, or the mere leveling of land for agricultural purposes.

Taxable under the classification Wholesaling-All Others upon gross income from subcontracts to perform such services for resale.

Taxable under the classification Service and Other Activities upon gross income from contracts to perform janitorial services the mere core drilling of or testing of soil samples, or the mere leveling of land for agricultural purposes.

The term "janitorial services" includes activities performed regularly and normally by commercial janitor service businesses. Generally, these activities include the washing of interior and exterior window surfaces, floor cleaning and waxing, the cleaning of interior walls and woodwork, the cleaning in place of rugs, drapes and upholstery, dusting, disposal of trash, and cleaning and sanitizing bathroom fixtures. The term "janitorial services" does not include, among others, cleaning the exterior walls of buildings, the cleaning of septic tanks, special cleanup jobs required by construction, fires, floods, etc., painting, papering, repairing, furnace or chimney cleaning, snow removal, sandblasting, or the cleaning of plant or industrial machinery or fixtures.

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INSTALLING, CLEANING, REPAIRING OR OTHERWISE ALTERING OR IMPROVING
PERSONAL PROPERTY OF CONSUMERS

BUSINESS AND OCCUPATION TAX

RETAILING. Persons installing, cleaning, decorating, beautifying, repairing or otherwise altering or improving tangible personal property of consumers or for consumers are taxable under the Retailing classification upon the gross proceeds received from sales of tangible personal property and the rendition of services.

WHOLESALE. Persons who sell tangible personal property to, or render any of the above services for others than consumers, are taxable under the Wholesaling classification upon the gross proceeds of sales received therefrom.

There must be included within gross amounts reported for tax all fees for services rendered and all charges recovered for expenses incurred in connection therewith, such as transportation cost, hotel, restaurant, telephone and telegraph charges, etc.

REPAIRS FOR OUT-OF-STATE PERSONS. Persons residing outside this state may ship into this state articles of tangible personal property for the purpose of having the same repaired, cleaned or otherwise altered, and thereafter returned to them. No deduction is allowed as an interstate sale under the business and occupation tax.

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WAC-458-20- SALES TO MOTOR CARRIERS OPERATING IN INTERSTATE OR FOREIGN COMMERCE
174 OF MOTOR VEHICLES, TRAILERS, PARTS, ETC.

BUSINESS AND OCCUPATION TAX

In computing tax liability under the Retailing classification, persons engaged in the business of selling motor vehicles, trailers, parts and accessories, and persons engaged in the business of installing, cleaning, repairing or otherwise altering or improving such vehicles or parts are not permitted any deduction by reason of the fact that such sales or services are made to or for persons for use in conducting interstate or foreign commerce. Insofar as concerns the tax liability of vendors of such property or services it is immaterial that the purchaser may be entitled to a statutory exemption from payment of the retail sales tax.

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WAC-458-20-175 PERSONS ENGAGED IN THE BUSINESS OF OPERATING AS A PRIVATE OR COMMON CARRIER BY AIR, RAIL OR WATER IN INTERSTATE OR FOREIGN COMMERCE

The term "private carrier" means every carrier, other than a common carrier, engaged in the business of transporting persons or property for hire.

The term "watercraft" includes every type of floating equipment which is designed for the purpose of carrying therein or therewith persons or cargo. It includes tow boats, but it does not include floating dry docks, dredges, or pile drivers, or any other similar equipment.

The term "carrier property" means airplanes, locomotives, railroad cars or watercraft, and component parts of the same.

The term "component part" includes all tangible personal property which is attached to and a part of carrier property. It also includes spare parts which are designed for ultimate attachment to carrier property. The said term does not include furnishings of any kind which are not attached to the carrier property nor does it include consumable supplies. For example, it does not include, among other things, bedding, linen, table and kitchen ware, tables, chairs, ice for icing perishables or refrigerator cars or cooling systems, fuel or lubricants.

"Such persons," and "such businesses" mean the persons and the businesses described in the title of this rule.

BUSINESS AND OCCUPATION TAX

Persons engaged in such businesses are not subject to business tax with respect to operating income received for transporting persons or property in interstate or foreign commerce.

When such persons also engage in intrastate business activities they become taxable at the rates and in the manner stated in WAC-458-20-181. For example, such persons are taxable under the Retailing or Wholesaling business tax classification upon the gross proceeds of sales of tangible personal property, including sales of meals, when such sales are made within this state.

Persons selling tangible personal property to, or performing services for, others engaged in such businesses, are taxable to the same extent as they are taxable with respect to sales of property or services made to other persons in this state. However, on July 1, 1985, a statutory business and occupation tax deduction

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became effective for sales of fuel for consumption outside the territorial waters of the United States by vessels used primarily in foreign commerce. In order to qualify for this deduction sellers must take a certificate signed by the buyer or the buyer's agent stating: The name of the vessel for which the fuel is purchased; that the vessel is primarily used in foreign commerce; and, the amount of fuel purchased which will be consumed outside of the territorial waters of the United States. Sellers must exercise good faith in accepting such certificates and are required to add their own signed statement to the certificate to the effect that to the best of their knowledge the information contained in the certificate is correct. ~~The following is an acceptable certificate form.~~

When a completed certification such as this is taken in good faith by the seller, the sale is exempt of business and occupation tax, whether made at wholesale or retail, and even though the fuel is delivered to the buyer in this state.

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PERSONS ENGAGED IN THE BUSINESS OF CONDUCTING COMMERCIAL DEEP SEA
FISHING OPERATIONS OUTSIDE THE TERRITORIAL WATERS OF WASHINGTON

As used herein:

The terms "such persons" and "such businesses" mean the persons and businesses described in the title of this rule.

The terms do not include sport fishermen nor persons operating charter boats for sport fishing. (See WAC-458-20-183 for tax liability of such persons.) Nor do the terms include persons who operate or purchase watercraft for kelping, purse seining, or gill netting, because such fishing methods can be legally engaged in only within the territorial waters of the state (the three-mile limit). Therefore, watercraft rigged for fishing by any of these methods will be deemed for use in other than commercial deep sea fishing.

The term "watercraft" means every type of floating equipment which is designed for the purpose of carrying therein or therewith fishing gear, fish catch or fishing crews, and used primarily in commercial deep sea fishing operations outside the territorial waters of the state of Washington.

The term "component part" includes all tangible personal property which is attached to and part of a watercraft. It includes dories, gurdies and accessories, bait tanks, baiting tables and turntables. It also includes spare parts which are designed for ultimate attachment to a watercraft. The said term does not include equipment or furnishings of any kind which are not attached to a watercraft, nor does it include consumable supplies. Thus it does not include, among other things, bedding, table and kitchen wares, fishing nets, hooks, lines, floats, hand tools, ice, fuel, or lubricants.

BUSINESS AND OCCUPATION TAX

Such persons are not taxable under the Extracting classification with respect to catches obtained outside the territorial waters of this state.

Such persons are taxable under either the Retailing or the Wholesaling classification with respect to sales made within this state, unless entitled to exemption by reason of the commerce clauses of the federal constitution.

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WAC-458-20-177 SALES OF MOTOR VEHICLES AND TRAILERS TO NONRESIDENTS, AND TO RESIDENTS TAKING DELIVERY OUTSIDE THIS STATE

The scope of this rule is limited to sales by dealers in this state of motor vehicles, campers, and trailers to nonresidents of the state for use outside the state.

For the purposes of this rule, members of the armed services (but not including civilian military employees) who are temporarily stationed in the State of Washington pursuant to military orders will be presumed to be nonresidents unless such persons were residents of this state at the time of their induction: the term "vehicle" as used herein refers to motor vehicles, campers, and trailers.

BUSINESS AND OCCUPATION TAX

In computing the tax liability of persons engaged in the business of selling vehicles no deduction is allowed by reason of sales made to nonresidents for use outside this state but who take delivery in Washington, and irrespective of the fact that such buyers may be entitled to a statutory exemption from the retail sales tax.

A deduction from gross proceeds of sales will be allowed when, as a necessary incident of the contract of sale, the seller agrees to, and does, deliver the vehicle to the buyer at a point outside the state, or delivers the same to a common carrier consigned to the purchaser outside the state.

The foregoing deduction, however, will be allowed only when the seller has secured and retains in his files satisfactory proof:

- a. That under the terms of the sales agreement the seller was required to deliver the vehicle to the buyer at a point outside this state; and
- b. That such out-of-state delivery was actually made by the seller or by a common carrier acting as his agent.

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WAC-458-20- VESSELS, INCLUDING LOG PATROLS, TUGS AND BARGES, OPERATING UPON
181 WATERS IN THE STATE OF WASHINGTON

BUSINESS AND OCCUPATION TAX

RETAILING OR WHOLESALING. Persons engaged in the business of operating such vessels and tugs are taxable under the Retailing or Wholesaling classification upon the gross sales of meals (including meals to employees) and other tangible personal property.

SERVICE AND OTHER BUSINESS ACTIVITIES. The business of operating lighters is a service business taxable under the Service and Other Business Activities classification upon the gross income from such service. Also taxable under this classification is gross income from operation of vessels to provide scenic cruises.

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DEFINITIONS. For purposes of this section the following terms and meanings will apply:

The term "Warehouse" means every structure wherein facilities are offered for the storage of tangible personal property.

"Storage warehouse" means a building or structure, or any part thereof, in which goods, wares, or merchandise are received for storage for compensation, except field warehouses, fruit warehouses, fruit packing plants, warehouses licensed under chapter 22.09 RCW (which are agricultural commodities warehouses), public garages storing automobiles, railroad freight sheds, docks and wharves, and "self-storage" or "mini-storage" facilities whereby customers have direct access to individual storage areas by separate access.

"Cold storage warehouse" means a storage warehouse used to store fresh and/or frozen perishable fruits or vegetables, meat, seafood, dairy products, or fowl, or any combination thereof, at a desired temperature to maintain the quality of the product for orderly marketing. This term does not include freezer space or frozen food lockers.

"Automobile storage garage" means any off-street building, structure, or area where vehicles are parked or stored, for any period of time, for a charge.

BUSINESS AND OCCUPATION TAX

Warehouse businesses are taxable according to the nature of their operations and the specific kinds of goods stored, as follows:

(a) Persons engaged in operating any "storage warehouse" or "cold storage warehouse," as defined herein, are subject to tax under the warehousing service classification, measured by the gross income of the business. (See RCW 82.04.280.)

(b) Persons engaged in operating any automobile storage garage are subject to tax under the retailing classification, measured by gross proceeds of such operations. (See RCW 82.04.050 (3) (d).)

(c) Persons engaged in operating any warehouse business, other than those of (a) and (b) of this subsection, are subject to tax under the service classification, measured by the gross income of the business. (See RCW 82.04.290.) This includes cold storage and frozen food lockers, field warehouses, fruit warehouses, agricultural commodities warehouses, and freight storage warehouses.

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TAX MEASURE. The gross ~~operating revenue~~ income of the business of operating a warehouse includes all income from the storing, handling, sorting, weighing or, measuring, and loading or unloading for storage of tangible personal property.

Where a grain warehouseman purchases or owns grain stored in such warehouse, there shall be included in taxable gross operating revenue income:

(a) An amount equal to the charges at the customary rate for all services rendered in connection with such grains up to the time of purchase by the warehouseman; and

(b) The amount of any charges for services that are rendered during the period of the warehouseman's ownership thereof billed and stated, as such, separately from the price of the grains on the invoice to the purchaser at the time of the sale by the warehouseman.

~~Persons engaged in the business of operating any type of warehouse and the renting of cold storage lockers are taxable under the Service and Other Activities classification upon the gross income received from such business.~~

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The term "sale at retail" is defined by RCW 82.04.050 to include certain amusement and recreation business. Those activities specifically included within the definition are golf, pool, billiards, skating, bowling, and ski lifts and tows. Thus, while the legislature has not defined the term "amusement and recreation business," it has indicated the type of businesses it intended to tax under this classification, i.e., recreation in which the payment is for participation. Accordingly, the language of this classification is construed to include the following additional amusement and recreation businesses: Archery, badminton, bowling shoes rentals, croquet and handball courts, operation of charter boats for sport fishing, golf cart rentals, dancing, golf driving ranges, miniature golf, private fishing, shuffleboard, swimming facilities, tennis facilities, trampolines.

BUSINESS AND OCCUPATION TAX

Gross receipts from the amusement and recreation businesses listed above are taxable under the classification Retailing.

Such persons are taxable under the Retailing classification upon gross receipts from sales of meals, drinks, tobacco or other property sold by them.

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DEFINITIONS

As used herein: The term "vending machines" means machines which, through the insertion of a coin will return to the patron a predetermined specific article of merchandise or provide facilities for installing, repairing, cleaning, altering, imprinting, or improving of tangible personal property of or for consumers. It includes machines which vend photographs, toilet articles, cigarettes and confections as well as machines which provide laundry and cleaning services.

The term "amusement devices" means those devices and machines which, through the insertion of a coin, will permit the patron to play a game. It includes slot and pinball machines and those machines or devices which permit the patron to see, hear or read something of interest.

The term "service machines" means any coin operated machines other than those defined as "vending machines" or "amusement devices." It includes, for example, scales and luggage lockers, but does not include coin operated machines used in the conduct of a public utility business, such as telephones and gas meters; also excluded are shuffleboards and pool games.

BUSINESS AND OCCUPATION TAX

~~VENDING MACHINES.~~ Persons operating vending machines are engaged in a retailing or wholesaling business and must report and pay tax under the Retailing or Wholesaling classification with respect to the gross proceeds of sales.

~~AMUSEMENT DEVICES.~~ Persons operating amusement devices, except shuffleboard, pool, and billiard games, are taxable under the Service and Other Business Activities classification on the gross receipts therefrom.

Persons engaged in operating shuffleboards or games of pool or billiards are taxable under the Retailing or Wholesaling classification on the gross receipts therefrom.

~~SERVICE MACHINES.~~ Persons operating service machines are taxable under the Service and Other Business Activities classification upon the gross income received from the operation of such machines.

When coin-operated machines are placed at a location owned or operated by a person other than the owner of the machines, under any arrangement for compensation to the operator of the location, the person operating the location has granted a license to use real property and will be responsible for reporting and paying tax upon his gross compensation therefor under the Service classification.

Sales of vending machines, service machines and amusement devices to persons who will operate the same are sales at retail and taxable under the Retailing classification on the gross receipts therefrom.

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DEFINITIONS. As used in this section:

"Prescription" means a formula or recipe or an order therefor written by a medical practitioner for the composition, preparation and use of a healing, curative or diagnostic substance, and also includes written directions and specifications by physicians or optometrists for the preparation, grinding, and fabrication of lenses intended to aid or correct visual defects or anomalies of humans.

"Other substances" means products such as catalytics, hormones, vitamins, and steroids, but the term does not include devices, instruments, equipment, and similar articles.

"Food" means any substance the chief general use of which is for human nourishment.

"Medical practitioner" means a person within the scope of RCW 18.64.011(9) who is authorized to prescribe drugs, but excluding veterinarians, and for the purposes of this rule includes also persons licensed by chapter 18.53 RCW to issue prescriptions for lenses.

"Licensed dispensary" means a drug store, pharmacy, or dispensary licensed by chapter 18.64 RCW or a dispensing optician licensed by chapter 18.34 RCW.

"Prosthetic devices" are artificial substitutes which physically replace missing parts of the human body, such as a limb, bone, joint, eye, tooth, or other organ or part thereof, and materials which become ingredients or components of prostheses.

"Orthotic devices" are fitted surgical apparatus designed to activate or supplement a weakened or atrophied limb or function. They include braces, collars, casts, splints, and other specially fitted apparatus as well as parts thereof. Orthotic devices do not include durable medical equipment such as wheelchairs, crutches, walkers, and canes nor consumable supplies such as elastic stockings, arch pads, belts, supports, bandages, and the like, whether prescribed or not.

"Ostomic items" are medical supplies used by colostomy, ileostomy, and urostomy patients. These include bags, tapes, tubes, adhesives, deodorants, soaps, jellies, creams, germicides, and sundry related supplies.

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BUSINESS AND OCCUPATION TAX

The business and occupation tax applies to all the gross proceeds from sales of drugs, medicines, prescription lenses, or other substances used for diagnosis, cure, mitigation, treatment, or prevention of disease or other ailment, except that the business tax does not apply to ailments in humans.

DEDUCTIONS. The following may be deducted from gross proceeds for computing business and occupation tax:

(a) Sales of prescription drugs and other medical and healing supplies furnished as an integral part of services rendered by a publicly operated or nonprofit hospital or other entity, nonprofit kidney dialysis facility, nursing home, or home for unwed mothers operated as a religious or charitable organization which meets all the conditions for exemption for services generally under RCW 82.04.4288 or 82.04.4289. (See WAC-458-20-168.) or

b. Sales of prescription drugs furnished as an integral part of services rendered by a hospital as defined by Chapter 70.41 RCW, when such hospital is operated by the United States government, the state, or a political subdivision of the state.

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WAC-458-20- SALES TO THE STATE OF WASHINGTON, COUNTIES, CITIES, SCHOOL
189 DISTRICTS AND OTHER MUNICIPAL SUBDIVISIONS.

BUSINESS AND OCCUPATION TAX

No deduction is allowed a seller in computing tax under the provisions of the business and occupation tax with respect to sales to the State of Washington, its departments and institutions or to counties, cities, school districts or other municipal subdivisions thereof.

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WAC-458-20- SALES TO AND BY THE UNITED STATES, ITS DEPARTMENT, INSTITUTIONS AND
190 INSTRUMENTALITIES-SALES TO FOREIGN GOVERNMENTS

BUSINESS AND OCCUPATION TAX

The United States, its departments, institutions and instrumentalities, including corporate instrumentalities, are not subject to tax under chapter 82.04 RCW.

In computing business tax liability of others, no deduction from value of products, gross sales or gross income is allowed in respect to business transacted with the United States, its departments, institutions or instrumentalities.

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FEDERAL RESERVATIONS

The State of Washington has jurisdiction and authority to levy and collect taxes under the provisions of the Revenue Act of 1935, as amended, upon persons residing within, or with respect to business transactions conducted upon Federal reservations; provided, however, that no tax may be levied upon or collected from the United States, its departments, institutions and instrumentalities or from any authorized purchaser therefrom. (See WAC-458-20-190.)

A concessionaire, operating within a Federal area under a grant or permit issued by the United States or by a department or instrumentality thereof, is not exempt from state excise taxes, but is taxable to the same extent as any private operator engaging in a similar business outside a Federal area and without specific authority from the United States.

The term "Federal reservation," as used herein, means any land or premises within the exterior boundaries of the State of Washington which are held or acquired by and for the use of the United States, its departments, institutions or instrumentalities.

BUSINESS AND OCCUPATION TAX

RETAILING AND WHOLESALING. Persons making retail or wholesale sales to persons residing within or conducting business upon Federal reservations are taxable upon gross proceeds of sales under the Retailing or Wholesaling classification.

With respect to the tax liability of sales to the United States, its departments, institutions or instrumentalities under these classifications, (see WAC-458-20-190.)

SERVICE AND OTHER BUSINESS ACTIVITIES. Persons performing services within Federal reservations are taxable under the Service and Other Business Activities classification upon the gross income derived therefrom, irrespective of the fact that such services are rendered for the United States, its departments, institutions or instrumentalities, or for military personnel.

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A. DEDUCTIBILITY, GENERALLY. In computing tax liability, the amount of certain taxes may be excluded or deducted from the Gross Amount reported as the measure of tax under the business and occupation tax. Such taxes may be deducted provided they (1) have been included in the Gross Amount reported under the classification with respect to which the deduction is sought, and (2) have not been otherwise deducted through inclusion in the amount of an allowable deduction taken under such classification for another reason, i.e., interstate commerce, etc.

The amount of taxes which are not allowable as deduction or exclusions must in every case be included in the Gross Amount reported.

B. MOTOR VEHICLE FUEL TAXES. So much of the sale price of motor vehicle fuel as constitutes the amount of tax imposed by the State of Washington or the United States government upon the sale thereof may be deducted by every seller thereof from the gross proceeds of sales reported under the business and occupation tax.

C. OTHER TAXES. The amount of taxes collected by a taxpayer, as agent for the State of Washington or its political subdivisions, or for the Federal government, may be deducted from the Gross Amount reported. Such taxes are deductible under each tax classification of the Revenue Act under which the Gross Amount from such sales or services must be reported.

This deduction applies only where the amount of such taxes is received by the taxpayer as collecting agent and is paid by the agent directly to the state, its political subdivisions, or to the Federal government. When the taxpayer is the person upon whom a tax is primarily imposed, no deduction or exclusion is allowed, since in such case the tax is a part of the cost of doing business. The mere fact that the amount of tax is added by the taxpayer as a separate item to the price of goods he sells, or to the charge for services he renders, does not in itself, make such taxpayer a collecting agent for the purpose of this deduction.

SPECIFIC TAXES, DEDUCTIBLE. The deductions under paragraphs B and C above apply to the following excise taxes among others:

Federal-

Tax on gasoline.....	26 U.S.C.A	Sec. 4081;
Tax on telegraph, telephone, radio and cable messages.....	26 U.S.C.A	Sec. 4251;
Tax on transportation of persons.....	26 U.S.C.A	Sec. 4261;
Tax on transportation of property.....	26 U.S.C.A	Sec. 4271;

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State

Leasehold Excise Tax Collected from lessees, Chap. 82.29A RCW;
Motor vehicle Fuel Tax, Chap. 82.36 RCW;
Retail Sales Tax collected from buyers, Chap. 82.08 RCW;
Use Tax collected from buyers, Chap. 82.12 RCW;

Municipal

City Admissions Tax (imposed by city ordinance pursuant to RCW 35.21.280);
County Admissions and Recreations Tax (imposed by county ordinance pursuant to Chap. 36.38 RCW).

Specific Taxes-Nondeductible. No deduction is allowed with respect to the following licenses and taxes, among others:

Federal-

A.A.A. Compensating tax.....7 U.S.C.A Sec 615(e);
A.A.A. Processing Tax.....7 U.S.C.A Sec. 609;
Employment Taxes.....26 U.S.C.A Chap.21-25;
Estate taxes.....26 U.S.C.A Chap.11;
Gift taxes.....26 U.S.C.A Chap. 12;
Income taxes.....26 U.S.C.A Subtitle A;seq.
Liquor taxes.....26 U.S.C.A Chap.51;
Manufacturers' and importers of sugar tax...26 U.S.C.A Sec 4501;
Manufacturers' excise and import taxes.....26 U.S.C.A Chap. 32;
Automobiles, etc.....26 U.S.C.A Sec 4061;
Firearms, shells and cartridges.....26 U.S.C.A Sec 4181;
Taxes imposed by Revenue Act of 1954.....26 U.S.C.A Chap.32;
Sporting goods.....26 U.S.C.A Sec 4161;
Lubricating oils.....26 U.S.C.A Sec 4091;
Tires and inner tubes.....26 U.S.C.A Sec 4071;
Narcotics tax.....26 U.S.C.A Chap 39;

Occupation taxes:

Importers, manufacturers and dealers
in firearms.....26 U.S.C.A Sec 5801;
Insurance policies issued by foreign
insurers.....26 U.S.C.A Sec 4371;
Sale and transfer of firearms tax.....26 U.S.C.A Sec 5811;
Tobacco excise taxes.....26 U.S.C.A Chap 52
Wagering taxes.....25 U.S.C.A Chap 35;

State and Municipal-

Add valorem property taxes.....Title 84 RCW;
Alcoholic beverages licenses and stamp taxes..Chap. 66.24 RCW;
(Breweries, distillers, distributors and wineries)
Boxing and wrestling licenses and tax.....Chap. 67.08 RCW;
Business and occupation tax.....Chap. 82.04 RCW;
Cigarette tax.....Chap. 82.24 RCW;
Conveyance tax.....Chap. 82.20 RCW;
Gifts and inheritance taxes.....Title 83 RCW;
Local license fees
Parimutual tax.....RCW 67.16.100;

WAC-458-20- Public Utility tax.....Chap. 82.16 RCW;
195 Real estate excise tax.....Chap. 28A.45 RCW;
(Cont'd) Regulatory fees
State license fees
Tobacco products tax.....Chap. 82.26 RCW;
Use tax when not collected as agent
for state.....Chap. 82.12 RCW;

The question of the right to exclude or deduct the amount of any tax other than those authorized herein should be submitted to the Department of Revenue for determination.

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BUSINESS AND OCCUPATION TAX

In computing business and occupation tax there may be deducted by taxpayers whose regular books of accounts are kept upon an accrual basis, the amount of business credit losses actually sustained, providing that such deduction will be allowed only with respect to transactions upon which a tax has been previously paid and providing that the amount thereof has not been otherwise deducted and that credits have not been issued with respect thereto.

Bad debt deductions must be taken by the taxpayer during the tax reporting period during which such bad debts were actually charged off on the taxpayer's books of account.

In cases where the amount of bad debts legitimately charged off in a particular reporting period exceeds the gross income for such period, the excess of the amount of the bad debts charged off during such period may be deducted from the gross income of the subsequent tax reporting period.

A dishonored (bad) check which proves to be uncollectible is a bad debt, to the extent it was taken as payment for goods or services on which business tax was previously reported and paid.

EXTRACTING OR MANUFACTURING, SPECIAL APPLICATION. Bad debt deductions will be allowed under the Extracting or Manufacturing classifications only when the value of products is computed on the basis of gross proceeds of sales.

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Gross proceeds of sales and gross income shall be included in the return for the period in which the value proceeds or accrues to the taxpayer.

ACCRUAL BASIS. When returns are made upon the accrual basis, value proceeds or accrues to a taxpayer as of the time the taxpayer actually receives, becomes legally entitled to receive or in accord with the system of accounting regularly employed enters as a charge against the purchaser, customer, or client the amount of the consideration agreed upon, whether payable immediately or at a definitely determined future time.

As to amounts actually received, however, such amounts do not constitute value proceeding to the taxpayer in the period in which received if the gross proceeds of sales or gross income of the contract or transaction by virtue of which such amounts are received, pursuant to the foregoing, constitute value accruing to the taxpayer during another period. It is immaterial whether the act or service out of which the consideration proceeds or accrues is performed or rendered, in whole or in part, during a period other than the one for which return is made, the controlling factor in this case being the time as of which the taxpayer received, or takes credit for, the agreed consideration.

CASH RECEIPTS BASIS. When returns are made upon cash receipts and disbursements basis, value proceeds or accrues to a taxpayer as of the time the taxpayer receives, either actually or constructively, the consideration promised. It is immaterial that the contract is performed in whole or in part, during a period other than the one in which payment is received. (But see WAC-458-20-199 for limitation as to persons who may report on the cash receipts basis.)

SPECIAL APPLICATION, CONTRACTORS. In the case of building and construction contractors value proceeds or accrues to the taxpayer as follows:

1. When the taxpayer maintains his accounting records on the accrual basis, as of the time the contractor becomes entitled to compensation under the contract:
 - a. If by the terms of the contract the taxpayer becomes entitled to compensation only upon the completion of the work, value accrues thereunder as of the time of completion;

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b. If by the terms of the contract the taxpayer becomes entitled to compensation upon estimates as the work progresses, value, to the extent of such estimates, accrues as of the time that each estimate is made and the balance at the time of the completion of the work or of the final estimate.

2. When the taxpayer maintains his accounting records on the cash receipts basis, as of the time that the consideration or compensation is received, but provided that the contractor shall make an annual adjustment of accounts receivable according to the procedure set forth in Method Three of WAC-458-20-199, Accounting Methods.

WAREHOUSEMEN. In the case of warehousemen value proceeds or accrues to the taxpayer as follows:

1. When the taxpayer is reporting upon the accrual basis (whether the consideration for storage is at a fixed rate per unit per month or other period or at a flat charge regardless of the length of time and whether payable periodically or at the time of withdrawal) as of the time the charge is entered against the owner of the goods stored in accordance with the terms of the contract between the parties and the regular system of accounting employed by the taxpayer. Thus, where a warehouseman, keeping books on accrual basis, customarily enters as a charge to the owner of the goods and a credit to storage income the full amount of a flat storage charge as of the time the goods are received, even though the time for payment is deferred until withdrawal of the goods, value accrues as of the time the goods are received. However, if the warehouseman customarily does not enter such charge until the time of withdrawal, value accrues as of such later date.

2. When the taxpayer is reporting upon a cash receipts basis, value proceeds or accrues as of the time the consideration or compensation for storage is received.

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BUSINESS AND OCCUPATION TAX

Persons making conditional sales or other installment sales of tangible personal property must report the total selling price of such sales in the tax reporting period in which the sale is made.

A deduction from gross proceeds of sales as a credit loss is allowed to such sellers for the amount of the unpaid balance of the contract price on any installment sale if and when the property purchased is repossessed upon default by the buyer.

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In computing tax liability under the business and occupation tax, one of the following accounting methods should be used.

Persons making taxable and nontaxable sales of tangible personal property must segregate such sales for the purpose of computing tax liability.

METHOD ONE, CASH BASIS. Only persons engaged in a strictly cash business will be permitted to make returns on a cash receipts basis. Certain small businesses which occasionally make a sale without receiving cash and which do not keep any file, record or general ledger account of such sales may be considered as doing a cash business, providing the volume of such sales never exceeds 5% of the gross volume of business. Under this method it is not necessary to make any adjustment at end of the year with respect to accounts receivable.

METHOD TWO, ACCRUAL BASIS. Persons operating their business on the accrual basis must report under the business and occupation tax for each tax reporting period the gross proceeds from all cash sales made during such period, together with the total amount of charge sales during such period.

METHOD THREE, CASH RECEIPTS, ACCOUNTS RECEIVABLE ADJUSTMENT. Persons doing a charge business who do not record such charges as sales at the time the sale is made may report for tax purposes under Method Three.

Persons may report and pay the tax on the amount received as cash sales plus all cash received on accounts during each period. If this method is adopted, an adjustment shall be made at end of the calendar year to add to cash received the amount of accounts receivable at the end of the year (not previously reported) to be reported along with cash receipts. A statement should accompany the return indicating the amount of accounts receivable so added. A deduction may be taken on subsequent returns filed in periods when cash is received upon accounts receivable so reported. Such receipts should be included (gross amount) and then listed as a deduction on the tax return and explained on the return as "cash received upon accounts receivable reported as of December 31, 19__".

Persons engaged in service business activities who are not liable for the collection of the retail sales tax are not required to adjust accounts receivable at the end of the tax year.

Where bad debts are charged off during any taxable year the amount thereof must be added to the accounts receivable outstanding at the end of the year before making adjustments provided for in method three.

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The term "pool purchase" means the joint purchase by two or more persons, engaging in independent business activities, of commodities in carload or truck load quantities for the purpose of obtaining a purchase price or freight rate which is less than when purchased or delivered in smaller quantities.

The term "principal member" means that member of the pool to whom the goods are charged by the vendor of the commodities purchased.

In computing tax liability of the principal member under Chap. 82.04 RCW, there may be deducted from gross proceeds of sales the amount received by him from other members of the pool of their proportionate share of the cost thereof of the commodities purchased.

This deduction is allowed only when all of the following conditions are met:

1. The amount received is included in the gross proceeds of sales.
2. The pool purchase agreement was entered into prior to the time of placing the order for the commodities purchased.
3. The pool purchase agreement provides that each member shall accept a specific portion of the shipment.
4. Division of the shipment is made prior to warehousing of the commodities by a member of the pool.

In no event will a "pool purchase" deduction be allowed when an agreement relative to the amount of the share to be distributed to any member is made after the date of the purchase order, or where one member of a pool pays an amount for his portion in excess of the proportionate amount paid by another member.

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Each separately organized corporation is a "person" within the meaning of the law, notwithstanding its affiliation with or relation to any other corporation through stock ownership by a parent corporation or by the same group of individuals.

Each corporation shall file a separate return and include therein the tax liability accruing to such corporation. This applies to each corporation in an affiliated group, as the law makes no provision for filing of consolidated returns by affiliated corporations or for the elimination of intercompany transactions for the measure of tax.

Each unincorporated association organized under the Massachusetts Trust Act of 1959 (Chapter 23.90 RCW) is likewise taxable in the same way as are separate corporations.

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WAC-458-20- OUTDOOR ADVERTISING AND ADVERTISING DISPLAY SERVICES
204

The term "outdoor advertising" means the business of rendering an advertising service to others by posting or painting advertising copy upon billboards owned or controlled by the outdoor advertiser.

The term "advertising display service" means the business of installing and maintaining advertising displays upon property of others, when title to the property used in the display is retained by the person engaged in such business.

BUSINESS AND OCCUPATION TAX

SERVICE AND OTHER BUSINESS ACTIVITIES. Taxable under the Service and Other Business Activities classification upon the gross income from advertising services.

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WAC-458-20- SALES OF UTILITLY SERVICES BY BUILDING COMPANIES
205

When building companies, apartment house owners or other real estate owners or lessors furnish utility services such as heat and electrical energy to their own tenants of office buildings, apartment houses and storerooms under circumstances indicating it is a part of the normal and customary landlord-tenant relationship and the charge made therefor is the cost of this utility service to the owner or lessor prorated among his tenants based upon the use or consumption of such services, the income derived therefrom is construed to be incidental to and a part of gross income from the renting or leasing of real estate and not subject to the provisions of the business and occupation tax. This is true whether the charge therefor is included in a lump sum rental or is billed separately. However, when the furnishing of utility services is not in accordance with the foregoing, the income derived therefrom is considered to be a separate business activity and is taxable under the appropriate chapter of the Revenue Act.

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The word "attorney" as used herein means an individual engaged in the practice of law. The term shall also include a professional service corporation organized under chapter 18.100 RCW for the purpose of engaging in the practice of law.

~~Court costs paid by a taxpayer is a business expense and may not be deducted from the Gross Amount reported as the measure of tax under the business and occupation tax.~~

~~Court costs paid by a taxpayer and recovered in an action at law may be excluded from the Gross Amount reported as the measure of tax under the business and occupation tax. The recovery of such costs is construed to be a return of capital invested rather than income.~~

~~Court costs advanced by an attorney for the account of his client may be excluded from the attorney's income upon the reimbursement by the client or recovery of such amount in an action at law. (See also WAC 458-20-111.)~~

BUSINESS AND OCCUPATION TAX

Attorneys are taxable under the service and other activities classification upon the gross income of the business. Gross income of the business means the value proceeding or accruing by reason of the transaction of the business engaged in and includes compensation for the rendition of services, all without any deduction on account of expenses or losses. (See RCW 82.04.070.) Value proceeding or accruing means consideration actually received or accrued. (See RCW 82.04.090.) Thus, under these statutes, the measure of the tax for attorneys includes compensation or consideration for the rendition of legal service.

Attorneys are bound by the rules of professional conduct. RPC 1.8e prohibits an attorney from financing the expenses of contemplated or pending litigation unless the client remains ultimately liable for such expenses. An attorney therefore normally acts solely as agent for the client when financing litigation. Accordingly, amounts received from a client for certain expenses of litigation do not constitute income to the attorney. Thus, such amounts are not part of the business and occupation tax measure.

Sometimes in the regular course of business an attorney may receive amounts from a client for expenses of third party providers incurred in connection with a legal matter other than litigation. Such amounts are also excluded from the business and occupation tax, but only if the attorney has no obligation for payment other than as agent for the client or equivalent commitment for their payment.

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Thus, the following kinds of expenses are not subject to the business and occupation tax where the above requirements are satisfied.

- A. Filing fees and court costs.
- B. Process server and messenger fees.
- C. Court reporter fees.
- D. Expert witness fees.
- E. Costs of associate counsel.
- F. Costs of third party service providers (for example, accountants, appraisers, architects, artists, draftsmen, economists, engineers, investigators, physicians, surveyors, etc.) who provide services to the client which the attorney does not or cannot render, and to whom the attorney has no obligation for payment other than as agent for the client.
- G. Registration, licensing or maintenance fees.
- H. Title and other insurance premiums.
- I. Escrow fees paid to third party escrow agents.

In order to support the exclusion from taxable gross income of any of the foregoing expenses, the attorney must maintain records which indicate the amount of the payment received from the client, the name of the client, the name of the person to whom the attorney has made payment, and a description of the item for which payment was made. If the foregoing expenses are incurred outside the context of litigation or contemplated litigation, the attorney must maintain records which indicate the amount of the payment received, the name of the client, and the person to whom the attorney makes payment. In addition, the attorney must provide the person to whom payment is made with written notice that (1) payment is made, or will be made on behalf of a named client, and (2) the attorney assumes no liability for payment, other than as agent for the named client.

General overhead costs are includable in the tax measure even though an attorney may allocate those costs among particular clients. Likewise, any other costs for which the attorney assumes personal liability other than as stated above are includable in the tax measure.

Thus, amounts received to compensate for the following costs are fully subject to tax, even though they may be separately stated on the billings or expressly denominated as costs to the client:

- A. Photocopy or other reproduction charges.
- B. Long distance telephone tolls.
- C. Secretarial expenses.
- D. Travel, meals and lodging.
- E. Third party service providers (for example, accountants, appraisers, architects, artists, draftsmen, economists, engineers, investigators, physicians, etc.) to whom the attorney assumes personal liability for payment.

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The term "accommodation sales" means only sales for resale by persons regularly engaged in the business of making sales of the type of property so sold to other persons similarly engaged in the business of selling such property where (1) the amount paid by the buyer does not exceed the amount paid by the seller to his vendor in the acquisition of the article and (2) the sale is made as an accommodation to the buyer to enable him to fill a bona fide existing order of a customer or is made within fourteen days to reimburse in kind a previous accommodation sale by the buyer to the seller.

The "amount paid by the seller to his vendor" may under some circumstances include certain actual costs incurred by the seller and billed as such to the buyer in addition to the invoice cost of the article sold at an accommodation sale. The facts concerning such added costs must be submitted to the Department of Revenue for specific rulings. The "amount paid by the seller to his vendor" shall not be reduced by the amount of any manufacturer's holdbacks or discounts received after an article has been sold at an accommodation sale even though such holdbacks or discounts may be retained by the seller.

BUSINESS AND OCCUPATION TAX

In computing tax under the Wholesaling-Other classification, there may be deducted from the reported gross amount so much as represents receipts from accommodation sales. Each seller claiming this deduction must retain, as a part of his sales records sufficient evidence to prove the nature of the transactions.

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WAC-458-20-
210 SALES OF AGRICULTURAL FARM PRODUCTS BY PERSONS FARMERS
PRODUCING THE SAME

The term "agricultural farm products" as used herein means ~~all farm products such as poultry, livestock, fruit, vegetables, and grains any agricultural or horticultural produce or crop, including any animal, bird, fish, or insect, or the milk, eggs, wool, fur, meat, honey, or other substance obtained therefrom:~~
Provided, That "fish" as used herein means fish which are cultivated and raised entirely within confined rearing areas on land owned by the person so raising the same or on land in which the person has a present right of possession.

BUSINESS AND OCCUPATION TAX

~~Persons Farmers are not subject to tax under the Wholesaling or Retailing classification of the business and occupation tax upon sales of farm products which have been raised by them making whole-sale or retail sales of agricultural products produced by them upon land owned by or leased to them are not subject to the business and occupation tax. This exemption does not extend to sales of manufactured or extracted products (see WAC-458-20-135 and 136), nor to the taking, cultivating, or raising of Christmas trees or timber.~~

Persons Farmers selling agricultural farm products not produced raised by them, are subject to tax under the wholesaling or retailing tax classification should obtain information from the Department of Revenue with respect to their tax liability.

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WAC-458-20- LEASES OR RENTALS OF TANGIBLE PERSONAL PROPERTY, BAILMENTS
211

The terms "leasing" and "renting" are used interchangeably and refer generally to the act of granting to another the right of possession to and use of tangible personal property for a consideration. The term "bailment" refers to the act of granting to another the right of possession to and use of tangible personal property without consideration.

BUSINESS AND OCCUPATION TAX

The renting or leasing of tangible personal property constitutes a "sale" (RCW 82.04.040) and persons engaged in renting or leasing such property to users or consumers are taxable under the Retailing classification upon the gross income from rentals as of the time the rental payments fall due. Persons renting or leasing tangible personal property to persons who will rent or lease such property to others are taxable under the classification Wholesaling.

Persons who rent equipment or other tangible personal property and, in addition, operate the equipment or supply an employee to operate the same, are subject to the business and occupation tax according to the classification of the activities performed by the equipment and operator. Thus, the charge made to a construction contractor for equipment with operator used in the construction of a building would be taxable under Wholesaling.

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The word "adjuster" as used herein, means a person licensed as such under the provisions of Chapter 48.17 RCW.

BUSINESS AND OCCUPATION TAX

Persons engaged in business as insurance adjusters are taxable under the Service and Other Business Activities classification upon the gross income of the business.

There must be included within gross income all fees received for services rendered, and all charges recovered for expenses incurred in performing services, such as transportation cost, hotel, restaurant, telephone and telegraph charges, etc.

In computing tax liability, there may be deducted from gross income (if included therein) money or credits received as reimbursement of advances made for towing, storage of and repairs to damaged automobiles, or advances for doctor, hospital, and ambulance fees and charges, and other such expenditures made with respect to damaged property or injured persons, payment of which was the obligation of the insurer or the insured.

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Persons operating oil company bulk stations under a commission agency agreement, billing in the name of the company they represent, hiring and paying employees or assistants, providing and maintaining trucks or other equipment are considered independent agents engaging in the business of distributing gas and oil rather than employees and are taxable under the Service and Other Business Activities classification of the business and occupation tax upon gross commissions.

Such persons are required to obtain a separate Business License even through a branch license has been obtained for them by the oil company they represent, due to the fact that the oil company reports the wholesale sales made by such persons.

Persons operating bulk stations under a commission agency agreement, who bill in their own name rather than in the name of the company they represent, are taxable as sellers either at wholesale or at retail, depending on the nature of the sales made.

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WAC-458-20-
214 COOPERATIVE MARKETING ASSOCIATIONS AND INDEPENDENT DEALERS ACTING
AS AGENTS OF OTHERS WITH RESPECT TO THE SALE OF FRUIT AND PRODUCE

Persons engaged in the business of buying and selling fruit or produce, as agents of others, and also in the business of washing, sorting, packing, or otherwise preparing for sale the fruit and produce of others, and activities incidental thereto, are taxable under the provisions of the business and occupation tax. Tax is due on the business activities of such persons, irrespective of whether the business is conducted as a co-operative marketing association or as an independent produce agent, as follows:

BUSINESS AND OCCUPATION TAX

RETAILING. Taxable with respect to the sale of ladders, picking bags, and similar equipment, sold for consumption.

WHOLESALE. Taxable with respect to:

1. The sale of boxes, nails, labels and similar supplies sold to growers for their use in packing fruit and produce for sale;
2. The sale of insecticides used as spray for fruits and produce;

COLD STORAGE WAREHOUSING. Taxable with respect to gross income from cold storage warehousing, but not including the rental of cold storage lockers. (See WAC-458-20-182)

SERVICE. Taxable under the Service and Other Business Activities classification with respect to:

1. Commissions for buying or selling;
2. Charges made for interest, no deduction being allowed for interest paid;
3. Charges for handling;
4. Charges for receiving, washing, sorting, and packing of fresh perishable horticultural products and the material and supplies used therein, when performed for persons other than the grower thereof;
5. Rentals of cold storage locker; and
6. Other miscellaneous charges, including analysis fees, but excepting actual charges made for foreign brokerage and bona fide charges for receiving, washing, sorting and packing fresh perishable horticultural crops and the materials and supplies used therein when performed for the grower, either as agent or independent contractor.

Where a seller performs packing services for the grower and furnishes the materials and supplies used therein, the amount of the charge therefor is deductible, even though the boxes and other packing material are loaned or charged to the grower prior to the time the fruit or produce is received for packing, provided that the boxes and packing materials are returned by the grower to the seller for use in packing fruit and produce for the grower.

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Whenever any taxpayer quits business, sells out, exchanges or otherwise disposes of his business or his stock of goods, any tax payable hereunder shall become immediately due and payable, and such taxpayer shall, within fifteen days thereafter, make a return and pay the tax due.

A successor shall not be liable for any tax due from the person from whom he has acquired a business or stock of goods.

The word "successor" means any person who shall, through direct or mesne conveyance, purchase or succeed to the business, or portion thereof, or the whole or any part of the stock of goods, wares, merchandise or fixtures or any interest therein of a taxpayer quitting, selling out, exchanging or otherwise disposing of his business. Any person obligated to fulfill the terms of a contract shall be deemed a successor to any contractor defaulting in the performance of any contract as to which such person is a surety or guarantor.

The word "successor" includes all persons who acquire the taxpayer's equipment or merchandise in bulk, whether they operate the business or not, unless the property is acquired through insolvency proceedings or regular legal proceedings to enforce a lien, security interest, judgment, or repossession under a security agreement. The following factual situations illustrate the application of the foregoing:

1. Taxpayer sells business and stock of goods. Purchaser is the successor.
2. Taxpayer sells stock of goods in bulk. Purchaser is the successor, even though taxpayer continues in business through purchase of new stock.
3. Taxpayer sells business, including fixtures, good will, etc., to one party and his stock of goods to another. Both purchasers are successors.
4. Taxpayer sells one branch of the business and stock of goods, and continues to carry on his business at other locations. Purchaser is successor to the portion of the business purchased and liable for any tax incurred in the operation of that business.
5. Taxpayer leaves business, including fixtures and stock of goods, which his landlord holds for unpaid rent. The landlord will be a successor unless he proceeds to foreclose his landlord's lien by posting notice and holding a sale by the sheriff.
 - a. If the landlord, instead of foreclosing his lien, takes a bill of sale to all of the taxpayer's interest in the business or stock of goods in satisfaction of rent, he is a successor.

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b. If the landlord fails to foreclose his lien and sells the fixtures or stock of goods and the purchaser continues the business or a similar business, the purchaser is a successor.

c. If the taxpayer does not leave any fixtures or stock of goods and the landlord engages in a like business in the same location or rents to a third person, neither the landlord nor the third person is a successor.

6. Taxpayer purchases business, equipment, or stock of goods under a security agreement and the property is repossessed by the vendor, the vendor is not a successor.

a. If the vendor sells to a third person who continues the business, the third person is not a successor.

b. If the taxpayer sells his equity under the security agreement to a third person, the third person is a successor.

c. If the property is not repossessed and the vendor buys back the interest of the taxpayer, the vendor is a successor, and any third person who purchases the same from such vendor and continues the business is also a successor.

7. Taxpayer dies or becomes bankrupt, goes into receivership, or makes an assignment for the benefit of creditors.

a. The executor, administrator, trustee, receiver, or assignee is not a successor but stands in the place of the taxpayer and is responsible for payment of tax out of the proceeds derived upon disposition of the assets.

b. A purchaser from the executor, administrator, trustee, receiver, or assignee is not a successor, unless under the terms of the purchase agreement he assumes and agrees to pay taxes and/or lien claims.

8. Taxpayer is a contractor and is required to post a bond to insure completion of the contract. Taxpayer defaults on the contract and the bonding company completes it. The bonding company is a successor to the contractor to the extent of the contractor's liability for that particular contract and is also liable for taxes incurred in the completion of the contract.

BULK TRANSFERS. Under Chapter 62A.6 RCW persons whose principal business is the sale of merchandise from stock (including manufactures) who transfer

1. a major part of the materials, supplies, merchandise or other inventory of the business; or

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2. all or substantially all of the equipment of the business are required to furnish to the transferee a sworn list of all creditors, showing their names, addresses, and amounts owed. The parties (both the transferor and transferee) are then required to prepare a schedule of property being transferred, the schedule to be sworn to by the transferor. The list of creditors and schedule of property must be

- a. preserved by the transferee for 6 months available for inspection and copying by any creditor,
- b. filed by the transferee with the county auditor, and
- c. served by the transferee on the Department of Revenue.

In addition to the foregoing, the transferee must, at least 10 days prior to taking possession of the goods or making payment for them, give notice of the transfer to

1. all persons shown on the list of creditors,
2. any other persons known to hold or assert claims against the transferor, and
3. the Department of Revenue.

The notice to creditors must also be filed with the county auditor and shall state

1. that a bulk transfer is about to be made,
2. names and business addresses of the transferor and transferee,
3. whether debts of the transferor will be paid in full as they fall due and if so (a) the location and general description of the property to be transferred, (b) the estimated total of the transferor's debts, and (c) certain other information specified by RCW 62A.6-107.

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WAC-458-20- ADVERTISING AGENCIES
218

Advertising agencies are primarily engaged in the business of rendering professional services, but may also make sales of tangible personal property to their clients or others or make purchases of such articles as agents in behalf of their clients. (See WAC-458-20-111.) Articles acquired or produced by advertising agencies may be for their own use in connection with the rendition of an advertising service or may be for resale as tangible personal property to their clients.

BUSINESS AND OCCUPATION TAX

The gross income received for advertising services, including commissions or discounts received upon articles purchased as agents in behalf of clients, is taxable under the Service and Other Business Activities classification. (See WAC-458-20-144 for discounts or commissions allowed by printers.) Included in this classification are amounts attributable to sales of tangible personal property, unless charges for such articles are separately stated in billings rendered to clients.

The Retailing or Wholesaling classification applies to articles of tangible personal property sold to persons for whom no advertising service is rendered and also to charges to clients for such articles if separately stated from charges for advertising services in billings rendered.

The Manufacturing classification applies to articles manufactured for sale or commercial or industrial use (see WAC-458-20-134), and also to interstate sales of manufactured articles separately stated from advertising services.

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WAC-458-20- PATRONAGE DIVIDENDS OF COOPERATIVE ASSOCIATIONS, NOT DEDUCTIBLE
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Patronage dividends declared by co-operative selling associations or corporations and paid from the earnings of such associations or corporations are not deductible in computing tax liability under the business and occupation tax.

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WAC-458-20-
220 PAINTING, PAPER HANGING, AND SIGN PAINTING

The term "sign painting" means the business of painting signs upon metal, wood, paper, cloth, etc., and of lettering names or painting signs on door, windows, buildings, walls, etc. It does not include the business of outdoor advertising as defined in WAC-458-20-204.

BUSINESS AND OCCUPATION TAX

Persons engaged in the business of painting, paper hanging, and sign painting are taxable under the Retailing classification upon gross sales.

Persons engaged in the business of processing for hire or manufacturing signs and who ship the articles produced to points outside the state are taxable under the manufacturing classification and are not subject to tax under the Retailing or Wholesaling classifications (See WAC-458-20-136).

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WAC-458-20- VETERINARIANS
222

Veterinarians are primarily engaged in the business of rendering professional services, although many veterinarians, in addition to such services, also sell medicines and supplies for use in the care of animals.

BUSINESS AND OCCUPATION TAX

Taxable under the Retailing classification upon gross sales of medicine and supplies when such articles are sold for a specific charge and not used by the veterinarian in the rendition of services.

Taxable under the Service and Other Business Activities classification upon the gross income derived from the rendition of professional services and from the boarding and training of animals.

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WAC-458-20- PERSONS PERFORMING CONTRACTS ON THE BASIS OF TIME AND MATERIAL, OR
223 COST-PLUS-FIXED-FEE

BUSINESS AND OCCUPATION TAX

Such persons are subject to business tax in accordance with the principles laid down in the Department of Revenue's published rules, as follows:

- As to Manufacturing or Processing for Hire, WAC-458-20-136;
- As to Constructing and Repairing of New or Existing Buildings, WAC-458-20-170;
- As to Building or Improving of Publicly Owned Roads, etc., WAC-458-20-171;
- As to contracts involving only the Grading and Clearing of Land, WAC-458-20-172;
- As to Service and Other Business Activities, WAC-458-20-224.

The measure of the tax under each of the foregoing types of contracts is the amount of profit or fixed fee received, plus the amount of reimbursements of prepayments received on account of sales of materials and supplies, on account of labor costs, on account of taxes paid, on account of payments made to sub-contractors, and on account of all other costs and expenses incurred by the contractor, plus all payments made by his principal direct to a creditor of the contractor in payment of a liability incurred by the latter.

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Chapter 82.04 RCW imposes a tax upon every person for the privilege of engaging in business in this state. Persons engaged in the certain specifically named business activities are subject to a tax rate set out in the statute which is measured by value of products, gross sales or gross income, e.g.: Extracting, manufacturing, retailing, wholesaling, printing and publishing, and building and repairing of publicly owned streets and roads.

Persons engaged in any business activity, other than or in addition to those for which a specific rate is provided in the statute, are taxable under a classification known as Service and Other Business Activities, and so designated upon return forms. In general, it includes persons rendering professional or personal services to persons (as distinguished from services rendered to personal property of persons) such as accountants, aerial surveyors and map makers, agents, ambulances, appraisers, architects, assayers, attorneys, automobile brokers, barbers, baseball clubs, beauty shop owners, brokers, chemists, chiropractors, collection agents, community television antenna owners, court reporters, dentists, detectives, employment agents, engineers, financiers, funeral directors, ~~garbage refuse~~ collectors, hospital owners, ~~insurance brokers~~, janitors, kennel operators, laboratory operators, landscape architects, lawyers, loan agents, music teachers, oculists, orchestra or band leaders contracting to provide musical services, osteopathic physicians, physicians, real estate agents, school bus operators, school operators, ~~sewer services other than collection~~, stenographers, warehouse operators, ~~other statutory tax classifications~~, teachers, theater operators, undertakers, veterinarians, and numerous other persons.

It does not include persons engaged in the business of cleaning, repairing, improving, etc., the personal property of others, such as automobile, house, jewelry, radio, refrigerator and machinery repairmen, laundry or dry cleaners. Also, it does not include certain personal and professional services specifically included within the definition of the term "sale at retail" in RCW 82.04.050, such as amusement and recreation businesses of a participatory nature (See WAC-458-20-183); abstract, title insurance and escrow businesses, credit bureau businesses and automobile parking and storage garage businesses. Furthermore, it does not include persons who render services to others in the capacity of employees as distinguished from independent contractors. (See WAC-458-20-105.)

BUSINESS AND OCCUPATION TAX

Persons engaged in any business activity, other than or in addition to those for which a specific rate is provided in Chapter 82.04 RCW, are taxable under the Service and Other Business Activities classification upon gross income from such business.

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WAC-458-20- PATTERN MAKERS
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BUSINESS AND OCCUPATION TAX

MANUFACTURING. Pattern makers are taxable under the Manufacturing classification with respect to making patterns.

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The business of landscape gardening ordinarily includes one or more of the following activities: (a) The performance of contracts for grading, filling, leveling and planting of yards, lawns, and grounds. (b) The sale, rental, or planting of ornamental trees, plants, shrubs, etc. (c) The performance of contracts for the construction of structures, such as walks, pools, fences or trellises, rockeries and retaining walls. (d) The maintenance of lawns, plants, or gardens, including grass cutting, hedge trimming, watering, and the pruning of trees and shrubs.

BUSINESS AND OCCUPATION TAX

Landscape gardeners are taxable under the classification Retailing upon gross proceeds of sales of tangible personal property at retail and upon gross income from performing contracts of types (a), (b), and (c) for consumers. Landscape gardeners are taxable under the classification Wholesaling on gross proceeds of sales for resale and upon gross income from performing contracts of types (a), (b), and (c) for other contractors for resale. Such persons are taxable under the classification Service and Other Activities upon gross income from activities of type (d).

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WAC 458-20- RETURNS, REMITTANCES, PENALTIES, EXTENSIONS.
228

As to taxes imposed under chapter 82.04 RCW (business and occupation tax), returns and remittances are due on the fifteenth day of the month next succeeding the period in which the tax accrued. Returns are filed quarterly or annually. Reporting periods are assigned by the department on the basis of the amount of tax liability. Returns shall be made upon forms prepared by the department, which forms are forwarded by mail to all registered taxpayers.

Remittances in payment of tax may be made by uncertified bank check, but if any such check or remittance, other than legal tender, is not honored by the bank on which drawn, the taxpayer shall remain liable for the payment of the tax and for all legal penalties thereon. The department may refuse to accept any check which, in its opinion, would not be honored by the bank on which such check is drawn. The remittance covered by any check which is so refused will be deemed not to have been made and the taxpayer will remain liable for the tax due and for the applicable penalties.

If any tax return, or payment of any tax, is not received by the department by the twenty-fifth day of the month in which the return and or tax becomes due, there shall be assessed a penalty of five percent of the amount due with a minimum penalty of Five Dollars (\$5.00); and if the return and or tax is not received by the fifteenth day of the month next succeeding the month in which the due date falls, there shall be assessed a total penalty of ten percent of the amount due with a minimum penalty of Fifteen Dollars (\$15.00); and if the return and or tax is not received by the last day of the month next succeeding the month in which the due date falls, there shall be assessed a total penalty of twenty percent of the amount due with a minimum penalty of Twenty-Five Dollars (\$25.00).

The department may refuse to accept any return which is not accompanied by a remittance of the tax shown to be due thereon, and if not accepted, the taxpayer shall be deemed to have failed or refused to file a return, and shall be subject to the foregoing penalties.

Under the law, none of the penalties referred to above may be less than five dollars. The aggregate of penalties for failure to file a return, or late payment of any tax, may not exceed twenty percent of the tax due, or twenty-five dollars, whichever is greater.

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(Cont'd)

The department shall apply the payment of the taxpayer first against penalties and interest, and then upon the tax, without regard to any direction of the taxpayer.

The department will waive or cancel the penalties imposed under RCW 82.32.090 and interest imposed under RCW 82.32.050 upon finding that the failure of a taxpayer to pay any tax by the due date was due to circumstances beyond the control of the taxpayer. The department has no authority to cancel penalties or interest for any other reason:

The following situations will constitute the only circumstances under which a cancellation of penalties will be considered by the department.

1. The return was filed on time but inadvertently mailed to another agency.
2. The delinquency was due to erroneous information given the taxpayer by a department officer or employee.
3. The delinquency was caused by death or serious illness of the taxpayer or his immediate family, or illness or death of his accountant or in the accountant's immediate family, prior to the filing date.
4. The delinquency was caused by unavoidable absence of the taxpayer, prior to the filing date.
5. The delinquency was caused by the destruction by fire or other casualty of the taxpayer's place of business or business records.
6. The taxpayer, prior to the time for filing the return, made timely application to the department, in writing, for proper forms and these were not furnished in sufficient time to permit the completed return to be paid before its delinquent date.
7. The delinquent tax return was received under the following circumstances:
 - a. The return was received by the department with full payment of tax due within 30 days after the due date; i.e. within the five percent penalty period prescribed by RCW 82.32.090, and
 - b. The taxpayer has never been delinquent filing a tax return prior to this occurrence, unless the penalty was excused under one of the preceding six circumstances, and
 - c. The delinquency was the result of an unforeseen and unintentional circumstance, not immediately known to the taxpayer, which circumstances will include the error or misconduct of the taxpayer's employee or accountant, confusion caused by communications with the department, failure to receive return forms timely, and delays or losses related to the postal service.
 - d. The delinquency will be waived under this circumstance on a one-time basis only.

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A request for a waiver or cancellation of penalties must be in letter form and should contain all pertinent facts and be accompanied by such proof as may be available. Petition for cancellation of penalties must be made within the period for filing under RCW 82.32.160 (within 10 days after the issuance of the original notice of the amount thereof or within the period covered by any extension of the due date thereof granted by the department). In all such cases the burden of proving the facts is upon the taxpayer.

EXTENSIONS

The department, for good cause, may extend the due date for filing any return.

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WAC 458-20-
233 TAX LIABILITY OF MEDICAL AND HOSPITAL SERVICE BUREAUS AND
ASSOCIATIONS AND SIMILAR HEALTH CARE ORGANIZATIONS

All medical service bureaus, medical service corporations, hospital service associations and similar health care organizations engaging in business within this state are subject to the provisions of the business and occupation tax and are taxable under the service and other business activities classification upon their gross income. The term "gross income" as defined in RCW 82.04.080 is construed to include the total contributions, fees, premiums or other receipts paid in by the members or subscribers. Insofar as tax liability is concerned it is immaterial that such organizations may be incorporated as charitable or nonprofit corporations.

Certain of these organizations operate under contracts by the terms of which the bureau or association acts solely as the agent of a physician, hospital, or ambulance company in offering to its members or subscribers medical and surgical services, hospitalization, nursing, and ambulance services. In computing tax liability such bureaus and associations, therefore, will be entitled to deduct from their gross income the amounts paid to member physicians, hospitals and ambulance companies. No deduction will be allowed with respect to amounts retained as surplus or reserve accounts or to amounts expended for the purchase of supplies or for any other expense of the bureau or association other than as provided herein.

Under contracts wherein these organizations furnish to their members medical and surgical, hospitalization and ambulance services as a principal and not as an agent, no such deduction is allowed.

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The following principles govern the applicability of changes in the rates of tax imposed under the Revenue Act with respect to contracts and sales agreements made prior to the effective date of the change:

When an unconditional contract to sell tangible personal property is entered into prior to the effective date of a rate change, and the goods are delivered after that date, the new rates will be applicable to the transaction. When an unconditional contract to sell tangible property is entered into prior to the effective date, and the goods are delivered prior to that date, the tax rates in effect for the prior period will be applicable.

When a contract to sell tangible personal property contains a specific provision to pass title at some time prior to delivery of the goods, such a specific provision will be deemed controlling and the tax rates in effect at that time will be applicable.

The business and occupation tax due on conditional and installment sales must be wholly reported during the period in which the sale is made (See WAC-458-20-198).

Lessors must pay the business and occupation tax at the new rates on all rental payments which fall due on and after the effective date of a rate change, including rental payments on leases entered into prior to that date.

Persons installing, repairing, cleaning, altering, imprinting or improving tangible personal property for others, or constructing, repairing, decorating or improving buildings or other structures upon the real property of others will pay the business and occupation tax at the new rates with respect to all such services performed and billed on and after the effective date of a rate change. With respect to contracts requiring the above services or construction which were executed prior to the effective date of a change in rates, the new rates will be applicable to the full contract price unless the contract work is completed and accepted prior to the effective date. If, however, under the terms of the contract, the seller is entitled to periodic payments which amounts are calculated to compensate the seller for the work completed to the date of payment, the applicable tax rates upon such payments (including, in the case of public works contracts, the percentage retained by the public agency pursuant to the provisions of RCW 60.28.010) will be those in effect at the time the contractor becomes entitled to receive said payments.

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Taxpayers filing returns on the cash basis (i.e., reporting charge sales at the time payment is received rather than at the time of sale) must make an accounts receivable adjustment (See WAC-458-20-199) at the time of a change in tax rates. For example, if a change of tax rate becomes effective July 1, a cash basis taxpayer should report along with the June cash receipts all accounts receivable outstanding as of June 30.

Intricate questions should be submitted in writing to the Department of Revenue for specific rulings.

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BUSINESS AND OCCUPATION TAX

Baseball clubs and other sport organizations are taxable under the classification of Service and Other Business Activities upon the total income derived from games for which such clubs are the sponsors or hosts, even though a fixed amount or a certain percentage of such income is paid to another team or club.

Conversely, amounts received by baseball clubs or other sport organizations as their share of the proceeds from games for which they are not the sponsor or host may be excluded from the measure of tax.

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For the purpose of this rule:

"Broadcast" or "broadcasting" includes both radio and television commercial broadcasting stations unless it clearly appears from the context to refer only to radio or television.

"Local advertising" means all broadcast advertising other than national, network or regional advertising as herein defined.

"National advertising" means broadcast advertising paid for by sponsors which supply goods or services on a national or international basis and which advertising is billed to an advertising agency office, national representative, or sponsor located outside the state of Washington.

"Network advertising" means broadcast advertising originated by national or regional broadcast networks from outside the state of Washington, the broadcast advertising being supplied by national or regional network broadcasting companies.

"Regional advertising" means broadcast advertising paid for by sponsors which supply goods or services on a regional basis over two or more states and which advertising is billed to an advertising agency office, regional representative, or sponsor located outside the state of Washington.

BUSINESS AND OCCUPATION TAX

RADIO AND TELEVISION BROADCASTING. Taxable on gross income from the sale of radio or television advertising, and any other gross income from broadcasting, excluding sales to other broadcasters of the right to broadcast material on processed film, sound recorded magnetic tape, and other transcriptions (see service and other activities).

DEDUCTIONS FROM GROSS INCOME FROM ADVERTISING:

1. AGENCY FEES. It is a general trade practice in the broadcasting industry to make allowances to advertising agencies in the form of the deduction or exclusion of a certain percentage of the gross charge made for advertising ordered by the agency for the advertiser. This allowance will be deductible as a discount in the computation of the broadcaster's tax liability in the event that the allowance is shown as a discount or price reduction in the billing or that the billing is a net basis, i.e., less the discount.

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2. GROSS RECEIPTS FROM NATIONAL, NETWORK, AND REGIONAL ADVERTISING. The taxpayer may deduct either actual gross receipts from national, network, and regional advertising as herein defined, as included in the gross amount reported under Radio and Television Broadcasting or may take a "standard deduction" as provided by RCW 82.04.280, as amended by chapter 149, Laws of 1967 ex.sess., which will be a percentage arrived at annually for all broadcast stations in the state of Washington which use the standard deduction method. This percentage will be determined by dividing the total broadcast advertising receipts in the nation from network, national, and regional advertising by the total broadcast advertising receipts in the nation. This standard deduction will be based on the most current figures published at the beginning of the calendar year and shall be used throughout that calendar year notwithstanding the publishing of the following year's figures within that calendar year. Previously the Federal Communications Commission published the figures used to compute the standard deduction. The Federal Communications Commission no longer publishes these figures and henceforth it will be the responsibility of the industry to annually provide these figures to the department of revenue. The figures used will be subject to verification by the department.

Example of computation:

The standard deduction for persons engaged in radio and television broadcasting was 64% for the calendar year 1970. The deduction was computed as follows:

- | | |
|---|-----------------|
| 1. Total radio advertising receipts 1968 | \$1,076,300,000 |
| 2. Total television advertising receipts 1968 | 2,087,600,000 |
| 3. Total broadcast advertising receipts | 3,163,900,000 |
| 4. Total national, network, regional advertising receipts, radio, 1968 | 379,200,000 |
| 5. Total national, network, regional advertising receipts, television, 1968 | 1,635,100,000 |
| 6. Total broadcast advertising receipts from national, network and regional advertising | 2,014,300,000 |
| 7. Standard deduction for 1970 will be the quotient of line 6 divided by line 3 or | 64% |

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3. INTERSTATE BUSINESS, ALLOCATION. It is recognized that radio and television broadcasting is an interstate business and that under the Constitution of the United States a tax is prohibited upon so much of the revenue of a radio or television broadcasting station as is derived from the service of broadcasting to persons in other states or foreign countries. Accordingly, revenues from local advertising shall be allocated to remove from the tax base the gross income from advertising which is intended to reach potential customers of the advertiser who are located outside the state of Washington.

It will be presumed that the entire gross income of radio and television stations located within the state of Washington from local advertising as herein defined is subject to tax unless and until the taxpayer submits proof to the department of revenue that some portion of such income is exempt according to the principles set forth herein and until a specific allocation formula has been approved by the department.

METHODS OF ALLOCATION. When the total daytime listening area of a radio or television station extends beyond the boundaries of the state of Washington, the allowable deduction is that portion of revenue represented by the out-of-state audience computed as a ratio to the station's total audience as measured by the 100 microvolt signal strength and delivery by wire, if any. The out-of-state audience may therefore be determined by delivery "over the air" and by community antenna television systems. However, community antenna television audiences may not be claimed by a station in the same area in which it claims an audience served over the air, thus eliminating a claim for double exemption.

The most current United States and Canadian census figures will be used to determine the in-state and out-of-state audience.

An engineer holding at least a first class operator's license from the Federal Communications Commission must compute the 100 microvolt contour for the station claiming the exemption. The 100 microvolt contour will be applicable to all broadcasting stations, whether standard (AM), frequency modulation (FM), or television (TV), and the applicable contour will be the daytime ground-wave contour. The computation must be submitted to the Department of Revenue in map form, showing the scale used in miles, with the contour drawn on the map and the counties or cities within the contour indicated. The map must be certified as being correct by the personal signature of the engineer making the computation. The type of license held by the engineer should be indicated. The map must have attached to it the population covered both within and without the state according to the applicable United States and Canadian census.

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In the event that cable antenna television subscribers are claimed as part of the out-of-state audience, the name of the systems, the location, and the number of subscribers must also be attached to the map. The number of subscribers will be multiplied by a factor of 3, representing the average size household family.

SERVICE AND OTHER ACTIVITIES. Taxable on gross income from personal or professional services including gross income from producing and making custom commercials or special programs, fees for providing writers, directors, artists and technicians, charges for the granting of a license to use facilities (as distinct from the leasing or renting of tangible personal property (see WAC-458-20-211), and charges to other broadcasters for the mere right to broadcast material on processed film, sound recorded magnetic tape, and other transcriptions when the material is returned to the original broadcaster.

RETAILING OR WHOLESALING. Taxable on gross proceeds of sales of tangible personal property, including gross proceeds from sales of films and tape produced for general distribution and from sales of copies of commercials, programs, films, etc., even though the original was not subjected to sales tax. The sales of custom-made programs, commercials, films, etc., is not taxable under this classification. (See subheading SERVICE AND OTHER ACTIVITIES above.)

MANUFACTURING. Taxable on the cost to produce special programs, such as public affairs, religious, travelogues, and other general programming, which are vended to other broadcasters under a lease or contract granting a mere license to use. This tax does not apply to a recording made for the broadcaster's own use, including news, delayed programs, commercials and promotions, special and syndicated programming, and "entire day" programming.

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TELEPHONE BUSINESS, COMPETITIVE TELEPHONE SERVICE

Persons engaged in the "telephone business" or rendering "competitive telephone service" are taxable under the Retailing or Wholesaling classification of the business and occupation tax, whichever is applicable, on total gross revenues, as described herein.

DEFINITIONS

The term "telephone business" means the business of providing access to a local telephone network, local telephone network switching service, toll service, coin telephone services, telephonic, video, data, or similar communication, or transmission for hire, via a local telephone network, toll line or channel, cable, microwave, or similar communication or transmission system. The term includes cooperative or farmers line telephone companies or associations operating exchanges. "Telephone business" does not include the provision providing of competitive telephone service, nor the provision providing of cable television service, nor the provision providing of broadcast services by radio or television stations. For taxability of telephone business and cable television service refer to Seattle Municipal Code, Chapter 5.48.

The term "competitive telephone service" means the providing by any person of telecommunications equipment or apparatus, or service, other than toll service, related to that equipment or apparatus such as installation, repair, or maintenance services, if the equipment or apparatus is of a type which can be provided by persons that are not subject to regulation as telephone companies under Title 80.

The term "toll service" means the charge for services outside the local telephone network except customer access line charges for access to a toll calling network.

The term "telephone company" means a person engaged in the telephone business.

BUSINESS AND OCCUPATION TAX

RETAILING AND WHOLESALING. Persons making retail sales of competitive telephone service to consumers are taxable upon the gross proceeds of sales under the Retailing classification. Persons making sales of competitive telephone services for resale in the regular course of business are taxable upon the gross proceeds of sales under the Wholesaling classification. The tax shall apply to the gross income from all sales of competitive telephone service.

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WAC-458-20- Gross income derived from charges to another telecommunications
245 company, as defined in RCW 80.04010, for connecting fees, switching
(Cont'd) charges, or carrier access charges relating to intrastate toll ser-
vices is taxable under the Wholesaling classification.

SERVICE. Taxable under the Service and Other Business Activities classification on income from services which are not included within the definition of the term "competitive telephone service" as defined herein. Included under this classification are, among others, gross income from the sale of advertising in telephone directories, gross income from charges made for processing NSF checks, and any other miscellaneous income.

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DEFINITIONS

The terms, "trade-in," "traded-in," and "property traded-in" have their ordinary and common meaning. They mean property of like kind to that acquired in a retail sale which is applied, in whole or in part, toward the selling price.

The term "property of like kind" means articles of tangible property of the same generic classification. It refers to the class and kind of property, not to its grade or quality. The term includes all property within a general classification rather than within a specific category in the classification. Thus, as examples, it means furniture for furniture, motor vehicles for motor vehicles, licensed recreational land vehicles for licensed recreational land vehicles, appliances for appliances, auto parts for auto parts, audio/video equipment for audio/video equipment, and the like. These general classifications are determined by the nature of the property and its function or use. It may be that some kinds of property fit within more than one general classification. For example, a motor home is both a motor vehicle and a licensed recreational land vehicle. Thus, for purposes of this rule, a motor home may be taken as a trade-in on a travel trailer, truck, camper, or a truck with a camper attached, and vice versa. Similarly, a travel trailer may be taken as trade-in on a motor home even though a travel trailer is not a motor vehicle; both are licensed recreational land vehicles. Conversely, a utility trailer may not be taken as trade-in on a travel trailer, for purposes of this rule, because a utility trailer is neither a motor vehicle nor a licensed recreational land vehicle. Similarly, a car may not be taken as trade-in on a camper and vices versa.

Under these definitions it is not required that a car be traded-in exclusively on another car in order to get the trade-in reduction of the tax measure. It could, as well, be traded-in as part payment for a truck, motorcycle, motor home, or any other qualifying motor vehicle. Similarly, a sofa for a recliner chair, a pistol for a rifle, a sailboat for a motorboat, or a gold chain for a wrist watch are the kinds of generic trade-in transfers which would qualify. However, the exclusion of the value of property traded-in does not include such things as a motorcycle for a boat, a diamond ring for a television set, a battery for lumber, or farm machinery (including tractors and self propelled combines) for a car.

VALUE OF PROPERTY TRADED-IN. The seller and buyer establish the value of property traded-in. However, the parties may not overstate the value of the property traded-in. Absent proof of a higher value, the property traded-in must be determined by the fair market value of similar property of like quality, quantity, and age, sold or traded under comparable conditions.

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WAC-458-20- TRADE-INS, SELLING PRICE, SELLERS' TAX MEASURES.

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(Cont'd)

BUSINESS AND OCCUPATION TAX

There is no trade-in exclusion for business and occupation tax. Thus, the gross receipts to be reported under the retailing classification of business and occupation tax continues to be the total value proceeding or accruing from the sale, including the value of property traded-in.

RCW 82.04.070 provides, "The term 'gross proceeds of sales' means the value proceeding or accruing from the sale of tangible personal property . . . without any deduction on account of the cost of property sold, the cost of materials used, labor costs, interest, discount paid, delivery costs, taxes or any other expense whatsoever paid or accrued and without any deduction on account of losses."

Also, the terms "selling price" and "gross proceeds of sales" include items of cost which are the direct obligation of the seller but which the seller may invoice separately to the purchaser. Examples of such costs are the cost of the contractor's performance bond, the cost of city or state business and occupation taxes, the cost of insurance protecting the seller and the cost of freight in. The selling price can be payable in money or otherwise. If it is payable in whole or in part in property, each party is a seller of the property being transferred.

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SALES OF PRECIOUS METAL BULLION AND MONETIZED BULLION

Effective July 1, 1985, amounts derived from sales of precious metal bullion and monetized bullion as defined herein, are not subject to business and occupation tax under either the wholesaling or retailing classification or to retail sales tax. Statutory law expressly excludes such sales from the definitions of the terms, "wholesale sale," "sale at wholesale," "retail sale," and "sale at retail."

The term, "precious metal bullion" is statutorily defined to mean any precious metal which has been put through a process of smelting or refining, including, but not limited to, gold, silver, platinum, rhodium, and palladium, and which is in such state or condition that its value depends upon its contents and not upon its form.

The term, "monetized bullion" means coin or other forms of money manufactured from gold, silver, or other metals and theretofore, now, or hereafter used as a medium of exchange under the laws of this state, the United States, or any foreign nation, but does not include coins or money sold to be manufactured into jewelry or works of art.

Thus, sales of processed or refined precious metal valued solely upon the content thereof, whatever its form, are not subject to tax in this state. This includes processed nuggets, bars, sticks, dust, and other processed forms of precious metal. For example, sales of gold or silver in raw, refined forms to dentists, laboratories, jewelers, and other persons, for their own consumption or for resale are not taxable. However, sales of precious metal which has been manufactured or further processed into any form which determines or adds to the value thereof are fully taxable. For example, sales of jewelry items, medallions, artworks, and other items, the value of which is dependent upon more than the mere content of precious metal therein, are subject to wholesaling or retailing business and occupation tax, whichever is applicable, and retail sales tax is appropriate.

Sales of metal money, in coined or other form, which is recognized as a medium of exchange in the financial marketplace, are not taxable. However, sales of coin or money, whether or not recognized as a medium of exchange, to jewelers or other persons for the purpose of manufacturing jewelry or artworks therefrom are fully taxable. For example, sales of coins for necklaces or to be used as buttons or in paintings or painting frames, etc., are taxable.

It is presumed that all sales of coin and metal money are entitled to tax exemption: Provided, That in order to be exempt of tax persons who knowingly sell such things to buyers who are regularly engaged in the business of manufacturing jewelry or works of art must take a written, signed, and dated statement from such buyers that the coins or metal money are not being purchased for use in manufacturing jewelry or works of art. Artistic or cultural organizations which purchase such things are exempt of retail sales tax as provided in WAC 458-20-249.

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WAC-458-20-
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(Cont,d)

SALES OF PRECIOUS METAL BULLION AND MONETIZED BULLION

The tax exclusions explained herein apply equally to sales of precious metal bullion or monetized bullion transferred through documents of ownership, certificates, confirmation slips, or other indicia of ownership.

TAXABLE COMMISSIONS

Amounts received as commissions upon sales of precious metals by dealers, brokers, and other selling and/or buying agents who sell or buy precious metal bullion or monetized bullion for the accounts of customers are subject to the Service and Other Activities classification of business and occupation tax. The amount of any shared commission or fee paid to other dealers or commissioned agents associated in such transactions are deductible from the measure of this tax. However, no deduction is allowed for any of the dealer's or commissioned agent's own costs of doing business, including salaries or commissions paid to their own salespersons or other employees. Similarly, persons who receive any part of shared commissions derived from having been associated in transactions for the purchase or sale of precious metal or monetized bullion for the account of others, are themselves subject to service business tax measured by such amounts received.

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For purposes of business and occupation tax deduction and certain retail sales tax and use tax exemptions, RCW 82.04.4328 expressly defines the term "artistic or cultural organizations" in pertinent part as follows:

". . . the term "artistic or cultural organization" means an organization which is organized and operated exclusively for the purpose of providing artistic or cultural exhibitions, presentations, or performances or cultural or art education programs, . . . for viewing or attendance by the general public. The organization must be a not-for-profit corporation under chapter 24.03 RCW and managed by a governing board of not less than eight individuals none of whom is a paid employee of the organization or by a corporation sole under chapter 24.12 RCW. In addition, to qualify for deduction or exemption from taxation . . . the corporation shall satisfy the following conditions:

(a) No part of its income may be paid directly or indirectly to its members, stockholders, officers, directors, or trustees except in the form of services rendered by the corporation in accordance with its purposes and bylaws;

(b) Salary or compensation paid to its officers and executives must be only for actual services rendered, and at levels comparable to the salary or compensation of like positions within the state;

(c) Assets of the corporation must be irrevocably dedicated to the activities for which the exemption is granted and, on the liquidation, dissolution, or abandonment by the corporation, may not inure directly or indirectly to the benefit of any member or individual except a nonprofit organization, association, or corporation which also would be entitled to the exemption;

(d) The corporation must be duly licensed or certified when licensing or certification is required by law or regulation;

(e) The amounts received that qualify for exemption must be used for the activities for which the exemption is granted;

(f) Services must be available regardless of race, color, national origin, or ancestry; and

(g) The director of revenue shall have access to its books in order to determine whether the corporation is exempt from taxes.

(2) The term "artistic or cultural exhibitions, presentations, or performances or cultural or art education programs" includes and is limited to:

(a) An exhibition or presentation of works of art or objects of cultural or historical significance, such as those commonly displayed in art or history museums;

(b) A musical or dramatic performance or series of performances; or

(c) An educational seminar or program, or series of such programs, offered by the organization to the general public on an artistic, cultural, or historical subject."

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WAC-458-20- ARTISTIC OR CULTURAL ORGANIZATIONS

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(Cont'd)

Effective July 1, 1985, January 1, 1987, artistic or cultural organizations, as defined herein, are not subject to business and occupation tax upon amounts derived from conducting any business activities whatever. ~~Formerly, a business and occupation tax deduction was available only for amounts received by such organizations from the United States and its instrumentalities or the state and local government entities (RCW 82.04.4322); certain manufacturing activities (RCW 82.04.4324); and tuition fees for artistic or cultural education programs (RCW 82.04.4326). Under current law, however, the deduction is unrestricted and applies to all activities conducted by such qualifying organizations.~~

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DEPARTMENT OF LICENSES AND CONSUMER AFFAIRS

DEPARTMENT POLICY AND PROCEDURE

Page 1 of 3

Subject:

REQUEST FOR LEGAL OPINIONS

Policy No.
82-DLCA-29

Supersedes:

All previously printed documents

Effective Date:

May 15, 1982

Purpose:

To establish consistency in the method for obtaining legal opinions from the Law Department, to provide a method of monitoring and controlling requests and opinions received, and to provide a method of informing staff of opinions requested and received.

Reference:

N/A

From:

Regina L. Glenn
Director

1.0 POLICY:

- 1.1 It is the policy of this Department that all requests for legal opinions be made in a standard format and that all such requests be monitored and controlled to insure consistent and timely return of the subsequent opinion.

2.0 DEFINITIONS:

- 2.1 For the purpose of this document, a legal opinion shall be defined as any request made for an opinion from the Law Department which receives a written response.

3.0 RESPONSIBILITY:

- 3.1 It is the responsibility of any person requesting an opinion from the Law Department to do so in writing.
- 3.2 It is the responsibility of each Division Assistant Director/Manager, or his/her designee, to obtain a request number from the Director's Administrative Secretary prior to preparation.
- 3.3 It is the responsibility of the Director's Administrative Secretary to maintain a log (Appendix C) of all requests made for legal opinions, receipt of all requested items and location of said legal opinions.
- 3.3.1 It shall be the responsibility of the Director's Administrative Secretary to maintain a check-in/out system for loan of any legal document.

Effective Date:

May 15, 1982

Policy No.
82-DLCA-29

Page 2 of 3

4.0 PROCEDURE:

- 4.1 When it is determined that an opinion is needed from the Law Department, a written request should be drafted for the Director's signature. If time permits a draft of the request may be submitted to Senior Management Team members for their feedback.
 - 4.1.1 Written requests should be submitted using the format as shown in Appendix B. No requests should be made verbally.
- 4.2 Each request must be given to the respective Supervisor and then Assistant Director/Manager(s).
- 4.3 The Assistant Director/Manager(s), or their designee, will obtain from the Director's Administrative Secretary a number denoting the logging of said request.
 - 4.3.1 The numbering system will be sequential as follows:
 - 4.3.1.1 Last two digits of the current year, i.e. 82.
 - 4.3.1.2 Letter code to designate Division and Section requesting the opinion (see Appendix A for letter code).
 - 4.3.1.3 Letter code to designate individual requesting opinion, said letter code to consist of the first initial of the person's first and last name (WT - Walt Tank, RG - Regina Glenn, etc.).
 - 4.3.2 Request number in ascending order.
 - 4.3.3 The number assigned will not be hyphenated (82LAWT01).
 - 4.3.4 The request number will be clearly indicated two spaces below the author/typist initial code block on the letter or memorandum (see Appendix B).
- 4.4 The written request shall be submitted to the Director for signature.
- 4.5 Following signature by the Director, the request will be returned to the Secretary/Typist for copying and mailing. One copy shall be made for the Director's Administrative Secretary's pending file, and one copy shall be made for the originator.
- 4.6 When a response is received from the Law Department, the response shall be coded in the upper right hand corner as follows:

Effective Date:

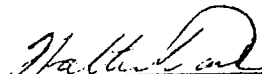
May 15, 1982

Policy No.
82-DLCA-29

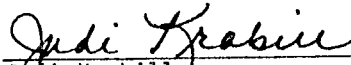
Page 3 of 3


- 4.6.1 Code established on request, followed by a hyphen.
- 4.6.2 "R" denoting response received, followed by a hyphen.
- 4.6.3 Date received, always using 2-digit numbers
(82LAW01-R-012182).
- 4.7 A copy of the response or a summary thereof shall be made and circulated, first to the Director, and then to the originator and his/her Section, and then to other members of the SMT, as appropriate.
- 4.8 A folder shall be prepared for the request, original response and any pertinent information. The folder will be numbered with the appropriate number denoting response received, and filed by the Director's Administrative Secretary.


Approved by:


Walter Tank, Assistant Director
License Division

Prepared by:


Judi Krabill
Administrative Secretary


Mike Burgwin, Manager
Division of Animal Control


Leonard Roberts, Acting Manager
Audit & Financial Services Division

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APPENDIX A

Letter Code - See Section 4.3.1.2

<u>Division</u>	<u>Section</u>	<u>Code</u>
Audit & Financial Services	Administration	AFSAD
	Audit	AFSA
	Data Processing	AFSDP
	Fiscal	AFSF
	Personnel	AFSP
Division of Animal Control	Administration	ACAD
	Animal Care	ACAC
	Operations	ACO
	Regulatory	ACR
Licenses	Administration	LA
	Enforcement	LE
	Operations	LO
	Weights & Measures	LWM
Office of the Director		OD

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APPENDIX B

**Your
Seattle**
Department of Licenses and Consumer Affairs

Regina L. Glenn, Director
Charles Royer, Mayor

May 1, 1982



- S A M P L E -

MEMORANDUM

To: Doug Jewett, City Attorney

From: Regina L. Glenn, Director
Department of Licenses and Consumer Affairs

Subject: REQUEST FOR LEGAL OPINION - (SUBJECT)

Please provide this Department with your legal opinion
on the following:

Should Enforcement officers be allowed to
request payment of delinquent taxes immediately?

RLG:wtc

82LAWT01

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- S A M P L E -

An equal employment opportunity - affirmative action employer

City of Seattle—Department of Licenses and Consumer Affairs, 102 Seattle Municipal Building, Seattle Washington 98104 (206) 625-2536/625-5500

REQUEST FOR LEGAL OPINION LC

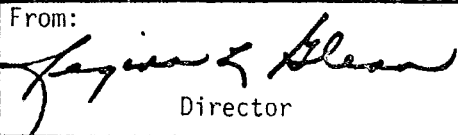
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DEPARTMENT OF LICENSES AND CONSUMER AFFAIRS

DEPARTMENT POLICY AND PROCEDURE

Page 1 of 2

Subject: ROUTING TAXPAYER LETTERS		Policy No. 82-DLCA-28
Supercedes:	Effective Date: March 1, 1982	
Purpose: To streamline the routing of letters and other written correspondence sent by taxpayers concerning the City's taxes or the taxpayer's tax responsibility.	Reference: N/A	
	From:  Director	

1.0 POLICY

- 1.1 It is the policy of this Department to route correspondence from taxpayers to the appropriate staff people to avoid delays in responding to taxpayers due to mail routing systems.

2.0 DEFINITIONS:

- 2.1 Supervisor shall be the person assigned as head of the Tax Audit Section.
- 2.2 Tax Auditor shall be the person assigned by the Supervisor to respond to correspondence from a taxpayer.
- 2.3 Manager shall be the person assigned as the head of the Administrative Services Division.
- 2.4 Mail Desk staff person shall be the person responsible for receiving mail sent to the Department through the U. S. Postal Service.

3.0 RESPONSIBILITY:

- 3.1 The Mail Desk staff will send all letters and correspondence, received at the Mail Desk from taxpayers, directly to the Tax Audit Supervisor.
- 3.2 If the Tax Audit Supervisor determines that a written response by the Director is required he/she will do the following:
- 3.2.1 Prepare, or have prepared, the response and give it to the Manager for review and comment.

Effective Date:

March 1, 1982

Policy No.
82-2CA-28

Page 2 of 2

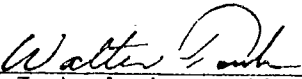
3.2.2 The final written response will be forwarded by the Supervisor, via the Manager, to the Director for signature.


3.2.3 A copy of taxpayer's written correspondence should be attached to the response for the Director's information.

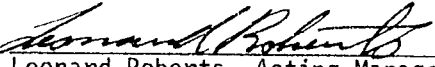
3.3 After approval of the written response, the Manager will have it mailed directly to taxpayer (or person writing on behalf of the taxpayer). A copy will be returned to the Supervisor.

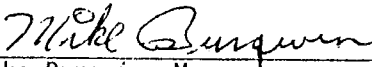
Approved by:

Prepared by:


Walt Tank, Assistant Director
License Division


Leonard Roberts, Acting Manager
Administrative Services Division


Leonard Roberts, Acting Manager
Administrative Services Division


Mike Burgwin, Manager
Division of Animal Control

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DEPARTMENT OF LICENSES AND CONSUMER AFFAIRS

DEPARTMENT POLICY AND PROCEDURE

Page 1 of 2

Subject:

COMPLAINT FILE INFORMATION FOR PUBLIC

Policy No.
82-DLCA-22

Supersedes: All previous memoranda and procedures.

Effective Date:
March 1, 1982

Purpose:

To provide a procedure for dissemination
of complaint file information to the
requesting public.

Reference:

RCW 42-17.250
RCW 42-17.310

From:

Raymond L. Glenn
Director

1.0 POLICY:

1.1 All records of complaints are open to public inspection except those that are in litigation or are in the process of criminal investigation.

2.0 DEFINITIONS:

N/A

3.0 RESPONSIBILITY:

3.1 Each Division (Animal Control, Administrative Services and Licenses), shall be responsible for administering this policy and procedure relating to complaint records within the respective Division files.

4.0 PROCEDURE:

4.1 Telephone requests for information on specific businesses or animal owners will be answered. Information will be limited to giving the caller only the number of complaints against a particular business or animal owner. The caller must be advised that this does not reflect the validity of the complaints whether they be perceived or actual. If the caller desires more information, he/she may be advised to come in and review the file as provided in this procedure.

4.2 Requests made in person to see particular files must be supervised by a designated supervisor to assure that nothing is removed from the files. Personnel shall handle all materials from the files and replace when completed.

42.1 Materials may have to be deleted from the files before they can be made available for inspection. See 4.3 and 4.6.

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Effective Date:

March 1, 1982

Police No.
82-DLCA-22

Page 2 of 2

- 4.3 Records are not discloseable if the information would be highly offensive to a person of reasonable sensibility, if known; and there is no legitimate public interest in the record. Unless both of these tests are met, the record is discloseable.
- 4.4 Records may be disclosed if identifying details can be deleted. When such deletions are made, the reason for such deletion must be made in writing.
- 4.5 Photocopies of the records with the deletions and exceptions listed in 4.3 and 4.6 may be made. The fee for such copies will be as prescribed by the Director in accordance with City policy.
- 4.5.1 No fees will be charged for inspection and location of records.
- 4.6 If the complaint records contain data subject to the Criminal Records Privacy Act, such information will also be excluded from disclosure.
- 4.7 If at the time of filing a complaint the complainant indicates that he/she does not wish to disclose his/her name, such desire shall govern.
- 4.8 Information revealing the identity of persons filing complaints with this Department, if disclosure would endanger any persons, life, physical safety, or property, shall not be disclosed.

Approved by:

Prepared by:

Walter Tank
Walt Tank, Assistant Director
License Division

William C. Sullivan
Bill Sullivan
Supervisor, Weights & Measures

Mike Burgwin
Mike Burgwin, Manager
Division of Animal Control

Leonard Roberts
Leonard Roberts, Acting Manager
Administrative Services Division

DEPARTMENT OF LICENSES AND CONSUMER AFFAIRS

DEPARTMENT POLICY AND PROCEDURE

Page 1 of 2

Subject: OUT-OF-OFFICE ASSIGNMENTS OF DEPARTMENT STAFF

Policy No:
81-DLCA-26

Supercedes: N/A

Effective Date:
July 13, 1981

Purpose: To provide adequate scheduling, coverage, and liaison when staff are engaged in out-of-office work assignments.

Reference:
80-DLCA-09
80-AC-ADM-001
80-AC-ADM-013

From:

Legion L. Pless
Director

1.0 POLICY:

It is the policy of this Department that when Department staff are engaged in out-of-office work assignments all time spent outside the office be accounted for.

2.0 DEFINITIONS:

N/A

3.0 RESPONSIBILITY:

It is the responsibility of Department Supervisors, staff, and Assistant Directors/Manager to fulfill the provisions of this policy and procedure.

4.0 PROCEDURE:

4.1 All staff who are engaged in out-of-office work assignments, whether in the course of their regular duties or on a special one-time assignment, must coordinate their out-of-office work schedule with their Supervisor.

4.2 Each Supervisor is responsible for scheduling their staff who are engaged in out-of-office work assignments.

4.2.1 Elements of Supervisor review are:

- 4.2.1.1 Purpose of the assignment
- 4.2.1.2 Off-site location of the assignment
- 4.2.1.3 Duration of the assignment and expected time of return to the office
- 4.2.1.4 Telephone contact whenever possible
- 4.2.1.5 Use of city vehicle and equipment

4.3 When staff are not able to return to the office at the expected time, they must notify their Supervisor.

Effective Date: July 1, 1981

Policy No.
81-DLCA-26

Page 2 of 2

4.4 Out-of-office staff work assignments that require rescheduling of normal shift hours, overtime or compensatory time, or the ending of a work shift away from the office must be cleared with the Assistant Director(s)/Manager.

Approved by:

Walter Tank
Walter Tank, Acting Assistant Director
Licenses Division

Vincent Lombard
Vincent Lombard, Assistant Director
Central Services/Consumer Affairs

Mike Burgwin
Mike Burgwin, Manager
Animal Control

Prepared by:


Walter Tank
Walter Tank, Acting Assistant
Director, Licenses Division

hfm (7/13/81)

DEPARTMENT OF LICENSES AND CONSUMER AFFAIRS

DEPARTMENT POLICY AND PROCEDURE

Page 1 of 3

Subject: Criteria for Waiver of Penalties		Policy No: 81-DLCA-25
Supersedes: 160-P-001	Effective Date: June 1, 1981	
Purpose: To establish uniform criteria for waiver of penalties for delinquent taxes.	Reference (See page 2 of 3)	
	From:  Director	

1.0 POLICY:

1.1 It is the policy of the Department of Licenses and Consumer Affairs that penalties for late payment of taxes may be waived under the following circumstances:

- 1.1.1 The delinquency was due to erroneous information given the taxpayer or licensee;
- 1.1.2 The delinquency was caused by the death or serious illness of the taxpayer or a member of his/her immediate family, or the death or serious illness of his/her accountant or a member of the accountant's immediate family;
- 1.1.3 The delinquency was caused by the destruction by fire, or other casualty, of the taxpayer place of business or business records;
- 1.1.4 The taxpayer made application for a tax form prior to the due date, but did not receive it in sufficient time to allow the filing of the tax return prior to the delinquency date;
- 1.1.5 The taxpayer was unaware of his/her responsibility to the fee or tax, but, upon becoming aware of the responsibility, voluntarily contacted the City (See Opinion No. 320);
- 1.1.6 The last day before the beginning of the delinquency period fell on a weekend or holiday in which case no penalty will be assessed if the tax payment is postmarked, or delivered directly to the Department on the first work day following the weekend or holiday;
- 1.1.7 The tax payment was postmarked on time but inadvertently mailed to another tax or license agency;

Effective Date:

June 1, 1981

Policy No.

81-DLCA-25

Page 2 of 3

1.1.8 Other causes beyond the control of a reasonably prudent business person;

1.2 It is the policy of the Department of Licenses and Consumer Affairs not to waive penalties under the following circumstances, provided that exceptions may be granted in Sub-sections 4.2.1 and 4.2.2 based on determination made from past payment records.

1.2.1 The tax payment was mailed without adequate postage before the delinquency date, returned to the sender for additional postage and not remailed until after the delinquency date;

1.2.2 Payment of the tax was made with an unsigned check which was not signed and remailed until after the delinquency date;

1.2.3 Payment of the tax was made by NSF check which was not redeemed until after the delinquency date.

2.0 DEFINITIONS:

N/A

3.0 RESPONSIBILITY:

3.1 The Tax Audit Supervisor will be responsible for all penalty waivers or denials thereof and will adhere to the guidelines for penalty waivers delineated herein.

4.0 PROCEDURES:

4.1 See Departmental Policy and Procedure No. 160-P-002 for procedure for accurately establishing postmark or date of receipt; (Attached as Appendix "A")

4.2 Manual mailing of tax forms with extended due date must include a return envelope addressed to the attention of the sender. When payment is received, take the necessary action to assure the waiver or the proper assessment of the penalty;

4.3 Apply and complete "Penalty Waived" stamp (Attached as Appendix "B").

REFERENCES

B&O Tax - Ordinance 72630, Sections 13 and 17.

Admissions Tax - Ordinance 72495, Section 7.

Occupation Tax - Ordinance 62662, Sections 11 and 16-A.

Gambling Tax - Ordinance 102459, Section 2.

Effective Date:

June 1, 1981

Policy No.

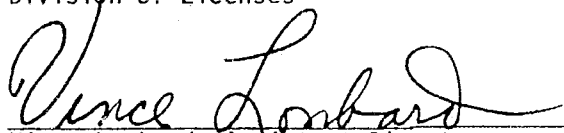
81-DLCA-25

Page 3 of 3

Approved by:



Walter Tank, Acting Assistant Director
Division of Licenses

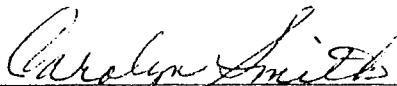


Vince Lombard, Assistant Director
Central Services and Consumer Affairs

Prepared by:



Frank Beck, License & Standard
Supervisor



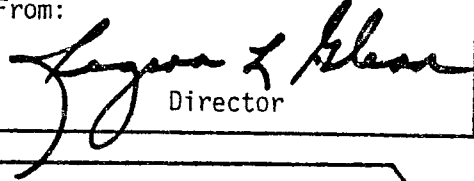
Carolyn Smith, Administrative
Specialist I

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DEPARTMENT OF LICENSES AND CONSUMER AFFAIRS

DEPARTMENT POLICY AND PROCEDURE

Page 1 of 2

Subject: FLEX-TIME HOURS		Policy No: 81-DLCA-24
Supercedes: All previous memoranda, policies, and procedures.	Effective Date: January 2, 1981	
Purpose: To establish a procedure for flexible work hours in each Division when possible.	Reference: N/A	
	From:  Director	

1.0 POLICY:

1.1 It is the policy of this Department to allow flexible work hours for personnel when such flexible work hours will provide for adequate and efficient productivity.

2.0 DEFINITIONS:

2.1 Flexible work hours are defined as those hours worked outside the normal Monday through Friday, 8:00 A.M. to 5:00 P.M., schedule.

3.0 RESPONSIBILITY:

3.1 It is the responsibility of Department Supervisors and Assistant Directors/Manager to fulfill the provisions of this policy.

4.0 PROCEDURE:

4.1 Department Supervisors may allow a flexible work schedule for employees under their immediate supervision provided that such schedules are approved by the Supervisor and the Assistant Director/Manager of the respective Division.

4.2 Before such approval is granted, it must be insured that flexible working hours will provide for:

4.2.1 Adequate staffing.

4.2.2 Proper and adequate supervision.

4.2.3 Adequate interface with other Departments.

4.2.4 Adequate responsiveness to the public.

4.2.5 Continued high-level and efficient productivity.

Effective Date:

January 2, 1981

Policy No.

81-DLCA-24

Page 2 of 2

Approved by:

Walter Tank
Walter Tank, Acting Assistant Director
Licenses Division

Vincent Lombard
Vincent Lombard, Assistant Director
Consumer Affairs/Central Services

Mike Burgwin
Mike Burgwin, Manager
Animal Control

Prepared by:

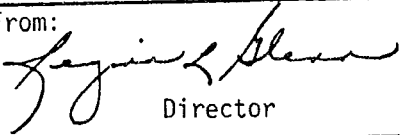
Walter Tank
Walter Tank, Acting Assistant Director
Licenses Division

Rev. by HFM (1/13/81)

DEPARTMENT OF LICENSES AND CONSUMER AFFAIRS

DEPARTMENT POLICY AND PROCEDURE

Page 1 of 3

Subject: OUTSTANDING EMPLOYEE AWARD		Policy No: 81-DLCA-21R
Supersedes: 81-DLCA-21 and all previous memoranda, policies, and procedures.	Effective Date: January 25, 1982	
Purpose: To provide a form of recognition for quality performance of duties by employees of each Division, and to inform all staff what their colleagues and co-workers are doing in the performance of their tasks to enhance the effective operation of the Department.	Reference: N/A	
	From:  Director	

1.0 POLICY:

- 1.1 It is the policy of this Department that outstanding work of high quality by its employees be recognized and that such recognition be made public throughout the Department.

2.0 DEFINITIONS:

- 2.1 The Selection Committee is defined as being composed of the Assistant Director of Licenses and the Managers of the Division of Animal Control and the Administrative Services Division.
- 2.2 Selection Criteria are defined as follows:
- 2.2.1 Ability to get along with fellow-workers and the public.
 - 2.2.2 Attendance record.
 - 2.2.3 Quality of work.
 - 2.2.4 Promptness in completing assignments.
 - 2.2.5 Any other pertinent qualifications.
- 2.3 Qualification periods shall be the 3 months immediately preceding each selection month.

3.0 RESPONSIBILITY:

- 3.1 It is the responsibility of the Department Director to coordinate the Outstanding Employee Award program in order to assure continuity.

Effective Date:

January 25, 1982

Policy No.

81-DLCA-21R

Page 2 of 3

3.2 It is the responsibility of the Director, the Assistant Director/Managers, and Supervisors to fulfill the provisions of this policy.

3.3 The specific responsibilities of the Selection Committee are as follows:

3.3.1 The Committee shall meet the third week of the months of January, April, July and October.

4.0 PROCEDURE:

4.1 Selection Process

4.1.1 Supervisors in each Section may nominate to their respective Assistant Director/Manager(s), employees working under their supervision who meet the qualifications listed in Section 2.2. Nominations must be written and will include a brief statement outlining the employee's qualifications.

4.1.2 Written nominations of employees meeting the qualifications listed in Section 2.2, may be submitted by any Department employee along with a written description of the reason for nomination, to their respective Assistant Director/Manager(s) with a carbon copy sent to the appropriate Supervisor(s).

4.1.3 Nominations must be submitted by the 15th day (or the closest working day thereto) of the months of January, April, July and October.

4.1.4 Final selection will be made at the Selection Committee Meeting.

4.2 Award Presentation

4.2.1 The Director shall present a Certificate of Recognition to the Award winners.

4.2.1.1 A copy of the Certificate of Recognition shall be retained in the employee's personnel file.

4.2.2 A 5" X 7" color photo of the Award winning employees will be hung at each appropriate Division location.

4.2.3 The Director and Division head(s) for the Award winner(s) will treat winners to the periodic Departmental Luncheon which directly follows their selection.

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Effective Date:

January 25, 1982

Policy No.

81-DLCA-21R

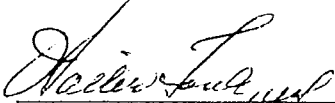
Page 3 of 3

4.2.3.1 Winners may be announced at, and may sit at the head table of, the Departmental Luncheons.

4.2.4 Recognition of the Award winning employees will be accorded in the Department Newsletter.

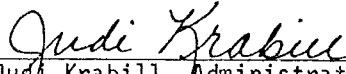
4.3 The Department Director and Division heads only are excluded from consideration as Outstanding Employee Award candidates.

Approved by:



Walter Tank, Assistant Director
License Division

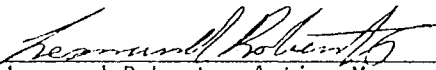
Prepared by:



Judi Krabill, Administrative
Secretary
Office of the Director



Mike Burgwin, Manager
Division of Animal Control



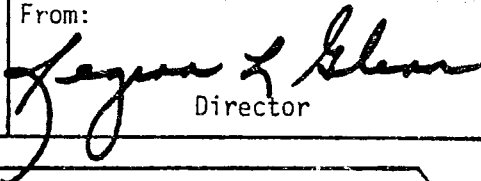
Leonard Roberts, Acting Manager
Administrative Services Division

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DEPARTMENT OF LICENSES AND CONSUMERS AFFAIRS

DEPARTMENT POLICY AND PROCEDURE

Page 1 of 3

Subject: LETTING OF CONTRACTS TO OUTSIDE FIRMS OR INDIVIDUALS		Policy No. 81-DLCA-17
Supersedes: N/A	Effective Date: January 2, 1981	
Purpose: To provide a standard procedure for the execution and processing of contracts between the Department and outside consultants consistent with Ordinance #108762 and City of Seattle Standard Operating Procedure No. 100-002.	Reference: Ordinance #108762 Standard Operating Procedure #100-002 Comptroller Memorandum 5/21/80	
	From:  Director	

1.0 POLICY:

- 1.1 It is the policy of this Department to obtain consultant services from within the Department's normal work force if the capability exists.
- 1.2 When such capability does not exist, it is the policy of this Department to comply with Ordinance #108762 and City of Seattle Standard Operating Procedure #100-002 in the execution and processing of contracts between the Department and outside consultants.

2.0 DEFINITIONS:

- 2.1 Consultant services are defined as efficiency studies, methods and/or systems analysis, organization and/or management evaluations, new and/or modified business systems, equipment and space utilization, personnel training, management and operational information requirements. Also included are planners and designers (Engineering, Architectural, and Landscape).
- 2.2 Contracts are defined as all agreements between the Department and other individuals or businesses to perform services for a fee that are advisory in nature and of fixed term.

3.0 RESPONSIBILITIES:

- 3.1 It is the responsibility of the Department to prepare contractual agreements, to submit such contracts to the City Clerk and the Board of Trade, and to prepare evaluation reports and performance reviews in accordance with the procedures outlined below.
- 3.2 It is also the responsibility of the Department to submit a request for outside consulting services, signed by the department head, to the Office of Management and Budget.

4.0 PROCEDURE:

4.1 The Department shall submit each request for outside consulting services, signed by the department head, to OMB at least thirty (30) days prior to the anticipated project start date.

4.1.1 The request shall include the purpose and scope of work to be performed, schedule, estimated cost, source of funding, and name of consultant(s).

4.1.2 The request shall also include the method and results of efforts to satisfy the requirement within the Department.

4.2 OMB shall review each request for outside consultant services and provide a written decision within ten (10) days of receipt.

4.2.1 The reasons for approval or disapproval shall be included in the written decision.

4.2.2 OMB shall maintain a copy of all documentation relating to each request.

4.3 After approval by OMB, the Department shall prepare the contract and a complete copy with original signature of the authorized representative of each party to the contract shall be filed by the Department with the City Clerk immediately following execution of the contract by all parties.

4.3.1 The original signature copy filed with the City Clerk must be accompanied by:

4.3.1.1 One additional copy of the contract (not an original signature copy).

4.3.1.2 A completed Request for Encumbrance (Form CFM-70.2).

4.3.1.3 A Transmittal Letter in two (2) copies detailing the particulars of the contract.

4.3.2 One copy of the Transmittal Letter will be returned by the City Clerk to the Department showing the File Number the City Clerk has assigned to the contract. The File Number is to be referenced whenever the Department files any future documents relating to the contract.

4.3.3 The same procedure should be followed when filing amendments to the contract.

4.4 A copy of the contract shall also be filed by the Department with the Board of Public Works immediately following execution by all parties.

Effective Date:

January 2, 1981

DLCA-17

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4.5 Upon expiration or termination of the contract, the Department shall prepare in writing a summary evaluation report.

4.5.1 The evaluation report shall describe the deficiencies noted in any periodic consultant performance evaluations and the action (if any) taken by the consultant in response thereto.

4.5.2 The evaluation report shall also indicate whether such responsive actions by the consultant corrected the noted deficiencies to the satisfaction of the Department.

4.5.3 The evaluation report shall also indicate any unresolved problems with respect to the consultant's performance.

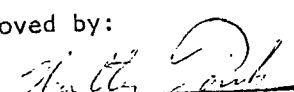
4.5.4 The evaluation report shall also indicate to the City Comptroller whether any final payment or payment of retainage should be made, the amount of payment approved by the Department, and whether the Department has imposed conditions upon such payment because of deficiencies that warrant the withholding of all or any portion of the consultant's compensation.

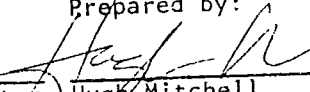
4.6 The evaluation report outlined in 4.5 above shall be filed with the City Comptroller and the Board of Public Works within thirty (30) days after the expiration or termination of every consultant contract.

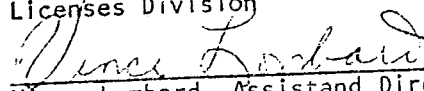
4.6 Whenever the Department desires consultant services estimated to cost fifteen thousand (\$15,000) dollars or more, the department head shall follow such procedures governing such contract services as outlined in Sections 2C, 3 through 8, 11, and 14 of Ordinance #108762.

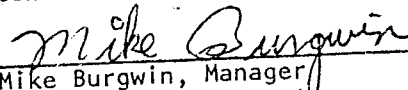
Approved by:

Prepared by:


Walter Tank, Acting Assistant Director
Licenses Division


Hugh Mitchell
Administrative Specialist


Vince Lombard, Assistant Director
Consumer Affairs/Central Services


Mike Burgwin, Manager
Animal Control Division

DEPARTMENT OF LICENSES AND CONSUMER AFFAIRS

DEPARTMENT POLICY AND PROCEDURE

Page 1 of 4

Subject: SAFETY REVIEW OF ON-THE-JOB ACCIDENTS

Policy No:
81-DLCA-16R

Supersedes: 81-DLCA-16

Effective Date:
June 1, 1981


Purpose:

To provide for uniform, timely review of all on-the-job accidents as required by the City of Seattle.

Reference:

WAC 296-24-045

From:


Director

1.0 POLICY:

1.1 It is the policy of this Department to conform to the standards established in WAC 296-24-045, the Safety and Health Committee Plan.

1.2 It is the policy of this Department that all on-the-job accidents shall be reported by the Supervisor and all reported accidents shall be reviewed by the Accident Review Subcommittee within five (5) working days of the receipt of the report. The Accident Review Subcommittee shall forward its findings to the Safety Subcommittee within eight (8) working days of receipt of the Supervisor's Report

2.0 DEFINITIONS:

2.1 The Safety and Health Committee shall be composed of one appointed Safety Officer and one elected Accident Review Board member from each of the following Divisions: Animal Control, Licenses, and Consumer Affairs/Central Services.

2.2 The Safety and Health Committee shall be divided into two subcommittees to be known as the Safety Committee and the Accident Review Board.

2.3 The Accident Review Board's membership shall consist of the three elected representatives of their respective Divisions.

2.4 The Safety Committee shall be composed of the three Division Safety Representatives.

3.0 RESPONSIBILITY:

3.1 The Department Safety Officer shall be elected by the Safety and Health Committee, and shall be the Chairperson of the Safety & Health Committee.

3.2 The Accident Review Board shall elect a chairperson from their membership to serve a term established by their membership.

Effective Date:

June 1, 1981

Policy No.

81 LCA-16R

Page 2 of 4

- 3.3 The Division heads, with the concurrence of the Director, shall appoint a Safety Representative from their respective Divisions who shall serve as members of the Safety and Health Committee.
- 3.4 The Division Safety Representative shall serve at the discretion of the Director.
- 3.5 Accident Review Board members shall be elected by the members of their respective Divisions (Animal Control, Consumer Affairs, Central Services, and Licenses) for terms to be established by the members.
- 3.6 The Accident Review Board shall meet on a schedule they shall establish to investigate departmental job-related accidents and to review Department safety procedures.
- 3.7 Records of all meetings shall be maintained for a period of one (1) year.

4.0 PROCEDURE:

4.1 Accident Review Board procedure shall be as follows:

- 4.1.1 Chairperson of the Board receives pink copy of Supervisor's "Report of Accident" from the Department Safety Officer.
- 4.1.2 Chairperson calls Board together for a hearing to review accident and notifies employee(s) involved in the accident by requesting their appearance at the hearing.
 - 4.1.2.1 Employees unable to attend the hearing on the appointed date may request another date or submit their testimony in writing to the Board by the hearing date.
 - 4.1.2.2 Hearings requested to take place beyond the stated five (5) days must have approval of the Department Safety Officer.
 - 4.1.2.3 After Board has reviewed Accident Report, in some cases it may deem that no further action is necessary. In such cases, employee(s) will not be requested to attend a hearing.
- 4.1.3 Board asks employee(s) to submit a copy of the State of Washington Accident Report if applicable, and asks the employee(s) to describe the accident in their own words and indicate their opinion as to whether the accident was preventable or unpreventable.
- 4.1.4 Board will research the report filed at the time of the accident for pertinent information. Board members may request additional information or explanation from the employee(s) at the time of the hearing.

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Effective Date:

June 1, 1981

Policy No.

81-DLCA-16R

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- 4.1.5 Board members may answer procedural questions at the hearing, but may not discuss their findings at this time with the employee(s).
- 4.1.6 Board members shall use the City of Seattle H.E.M. Rating Form to record their findings. (Appendix "A".)
- 4.1.6.1 The Board shall review all reports and facts pertaining to the accident and determine whether the accident was preventable or unpreventable.
- 4.1.6.2 The Board shall establish the degree of employee error if the accident is found to be preventable
- 4.1.6.3 The Board shall determine the number of points to assess, based on a majority judgment.
- 4.1.7 Within three (3) days of the date of the hearing, the Chairperson of the Board forwards the written report of the accident review to the Department Safety Officer, along with all documents relevant to the case, including the H.E.M. Rating sheets and the Review Evaluation Form filled out by the employee(s). (Appendix "B".)
- 4.1.8 The Board shall advise the employee(s) of its findings and shall advise the employee(s) of the appeal process.
- 4.1.8.1 Appeal shall be made in writing to the Department Safety Officer within five (5) days of the hearing.
- 4.1.9 The employee(s) shall complete the Review Evaluation Form.
- 4.2 Safety Committee review procedure shall be as follows:
- 4.2.1 Within five (5) days of the receipt of the findings of the Accident Review Board, the Department Safety Officer shall call a special meeting of the Safety Committee, if necessary, to review the findings of the Accident Review Board.
- 4.2.2 The Committee shall concur or disagree with the findings of the Accident Review Board in writing, including a rationale for their opinion, and shall recommend action based on the results of its review.
- 4.2.2.1 The Committee shall consider the past accident record of the employee(s) in their recommendations for action.
- 4.2.2.2 The Action recommended by the Committee shall include further training or remedial training in place of or in addition to disciplinary action.
- 4.2.3 The Committee shall hold hearings with the employee(s) upon appeal by the employee(s).
- 4.2.3.1 The Chairperson of the Accident Review Board shall meet with the Safety Committee to review the appeal.

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Effective Date:

June 1981

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81-DLCA-16R

Page 4 of 4

4.2.4 After the hearing by the Committee, complete file copies and Committee recommendations shall be forwarded to the Department Director for final decision.

4.2.4.1 If the Department Director concurs with the original Accident Review Board recommendations, letters of reprimand shall be issued or other disciplinary action initiated as warranted.

Approved by:

Prepared by:

Walter Tank
Walter Tank, Acting Assistant Director
Licenses Division

Vince Lombard
Vince Lombard, Assistant Director,
Consumer Affairs/Central Services

Mike Burgwin
Mike Burgwin, Manager, Animal Control

Sterling McFarlane
Sterling McFarlane, Department
Safety Officer

Ted Gabryelewicz
Ted Gabryelewicz
Safety Officer

Barbara L. Ultican
Barbara Ultican
Safety Officer

Hugh Mitchell
Hugh Mitchell
Administrative Specialist

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APPENDIX "A"

THE HEM ACCIDENT RATING

The HEM rating is a tool to look inside of an accident and attempt to see the big picture. It can only be of real value when the management concerned has the moral courage to deliberately evaluate its own role as well as the role of the employee involved in any accident.

$$H\% + E\% + M\% = 100\%$$

H = percentage of an accident due to Human error of employee involved.

E = percentage of accident due to External factors completely beyond the control of the employee or of efficient management.

M = percentage of accident charged to Management for failure in proper training, supervision, or supplying improper or defective equipment.

In many accidents, all three factors are involved to at least some degree. Though appearing to be somewhat complicated at first, the HEM rating is amazingly simple and effective. After each review the HEM rating is totalled and then divided by the number of members on the board. Each member on the board should record briefly why he/she placed a given percentage in each class. These statements will prove to be of very great value in any accident prevention program.

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WWV:mc

4/12/71

APPENDIX "B"

SAFETY REVIEW BOARD
EVALUATION

Please complete the following questions about the Safety Review Board hearing process and return before leaving.

1. Was the hearing both practical and factual?
2. Did you benefit from the hearing process? Why?
3. Do you feel that you received a fair and impartial hearing?
4. Do you have any suggestions to improve the hearing process?

Date _____

Signature _____

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DEPARTMENT OF LICENSES AND CONSUMER AFFAIRS

DEPARTMENT POLICY AND PROCEDURE

Page 1 of 5

Subject:

TESTIFYING IN COURT

Policy No:

81-DLCA-15

Supersedes:

N/A

Effective Date:

January 2, 1981

Purpose:

To establish uniform guidelines for Commissioned Officers' testimony and conduct in a Court of Law.

Reference:

Guideline and Procedural Manual
for Special Police Officers
(Seattle, March 1977)

From:

Raymond E. Glean
Director

1.0 POLICY:

- 1.1 It is part of a Commissioned Officer's responsibilities and duties to testify in a Court of Law when summoned to do so. A Commissioned Officer's testimony is the culmination of many hours of work on his/her part and on the part of other persons in the criminal justice system and should be regarded with appropriate concern.

2.0 DEFINITIONS:

- 2.1 Commissioned Officers and/or Officers are defined as Licenses and Standards Supervisors and Inspectors; Weights and Measures Supervisors, Inspectors, and Investigators; and Animal Control Managers and Officers.

3.0 PROCEDURES:

3.1 Pre-Trial Responsibilities

- 3.1.1 The following should be memorized prior to a court appearance:

- 3.1.1.1 Name of defendant. (Be able to identify positively the defendant.)
3.1.1.2 Date and time of offense and arrest.
3.1.1.3 Location of offense and arrest.
3.1.1.4 Crime for which the arrest was made.
3.1.1.5 Pertinent facts and details of the offense and arrest.

- 3.1.2 Read the major case report and Commissioned Officer's statement for review BEFORE court, and have witnesses do the same.

- 3.1.3 Attend pre-trial conference with the prosecutor and/or other investigators if called upon to do so.

3.2 Conduct

- 3.2.1 In court, Commissioned Officers should conduct themselves in a dignified, business-like manner.
- 3.2.1.1 Keep demeanor in keeping with the serious, well-established, business-like court procedure.
- 3.2.1.2 Do not indulge in horseplay, whisper unnecessarily, slump down in the seat, or go to sleep while waiting to testify.
- 3.2.1.3 Commissioned Officers should be aware that they, by their conduct in the courtroom, represent all other law enforcement officers.
- 3.2.2 Enter court and remain seated until called upon to testify.
- 3.2.2.1 Commissioned Officers should not go into the hallway or into other offices to wait or linger.
- 3.2.2.2 Do not wait in the hall for a case to be called unless you have been excluded from the Court.
- 3.2.2.3 Do not chew gum while waiting to testify.
- 3.2.2.4 Commissioned Officers should act in a manner commensurate with the seriousness a court trial demands, and in such a way that others will see them as persons intent that justice is fair and impartial.
- 3.2.3 Conversation outside the courtroom.
- 3.2.3.1 Commissioned Officers should not engage in conversation with jurors or persons connected with the defendant.
- 3.2.3.2 Discussions with the Prosecuting Attorney, his deputies or other officers interested in the case should be in a quiet voice and away from the ears of others.

3.3 Taking the Oath

- 3.3.1 Commissioned Officers should stand squarely on both feet with body erect; raise the right hand, with fingers extended in the normal position to about the level of the head; look at the person giving the oath, not at the ceiling or at a notebook. After the oath has been given, the "I do" should be spoken loudly enough to be heard by the Court. A nod of the head in the affirmative is not sufficient acknowledgement that a Commissioned Officer has accepted the oath.

Effective Date:

January 1, 1981

81-DLCA-15

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3.4 On the Witness Stand (Jury Trials)

- 3.4.1 Officers should be fair and impartial in their testimony. They are not trying to prove their case, but are giving only the facts as they know them. The Court and the Jury decide the case.
- 3.4.2 Officers should sit erect, but comfortably, in the witness chair. They should not slouch, spin and turn, clasp and unclasp the hands, and keep hands over the mouth so as to be unheard.
- 3.4.3 Officers should speak loudly enough to be heard by the Court and the Jury (speaking slowly, clearly, and distinctly). Face the jury and talk to them, not to the ceiling or the back of the courtroom. The Judge must hear the Officer's testimony; the jury must also hear the testimony, as well as the defense. Speaking in a mumble or a whisper will be construed by the jury as a sign of weakness. Make positive, accurate, straight-forward statements.
- 3.4.4 Officers should refer to the Judge as "Your Honor," and treat him with the same respect as do the members of the bar.
- 3.4.5 Officers should not be in a hurry to answer questions. If an officer does not understand the questions, he should not hesitate to say so and ask the Judge to have the question repeated.
- 3.4.6 Officers should give the counsels for both parties a chance to object, and should wait for the objection to be overruled or sustained by the Court before proceeding as directed. There is no reason for an Officer to fear any attorney. An Officer should have prepared his/her case well, should be sure of the facts, and should be giving only that testimony which is the whole truth. Testimony should be deliberate and precise, but not hesitant as any hesitancy may be interpreted by the jury as doubt about the accuracy/truthfulness of an Officer's answer to a question.
- 3.4.7 Officers should not be antagonistic toward the defense attorney or glower at the defendant. This trait will be observed by the jury, and the defense attorney will not endure such antagonistic attitudes passively. The defendant's lawyer is not an enemy, but an officer of the Court and should be so treated. An Officer's lost temper is a point in the defense lawyer's favor.
- 3.4.8 Officers should not hesitate to correct an error or a mistake in testimony, and should not attempt to bluff it through thereby being proven in the wrong and calling all testimony in doubt. An Officer should simply state, "Your honor, I would like to correct my testimony." The Judge will consent.

Effective Date:

January 2, 1981

DLCA-15

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- 3.4.9 Officers should not volunteer information, answering only those questions asked and not being hesitant or afraid to answer any question favorable to the defendant if he/she is asked. Because of an Officer's truthfulness, other testimony damaging to the defendant will have more impact upon the jury.
- 3.4.10 Officers should identify themselves with their full name (John Jones, Weights and Measures Inspector, City of Seattle Department of Licenses and Consumer Affairs).
- 3.4.11 Officers should not take reports to the stand, and if there is a need to refer to notes, they should be held in the lap, glanced at for reference but read verbatim. (All notes and reports may be examined by the defense attorney should he so desire.) Officers should testify in their own words, saying "No, sir," "Yes, sir," or "I do not know" rather than shaking the head.
- 3.4.12 Officers should be on the alert for leading and/or suggestive questions. Imagination should not be substituted for the facts. When restating something a witness said in the presence of the defendant, Officers should say "Such and such was said by the witness in the presence of the defendant." Officers should not permit themselves to be misquoted by an attorney. In such cases, Officers should courteously state that he/she has previously testified so and so.
- 3.4.13 Officers should not use slang on the witness stand. Simple and everyday good English should be used instead. The defendant should always be referred to as "the defendant," and testimony should always be fair and impartial.

3.5 Lower Courts (Statement of Intent and Purpose)

- 3.5.1 Municipal Police Courts are fundamental to our system of law enforcement. Many people feel that these lower courts are unimportant, inferior, and only a means of gaining revenue. They lose sight of the true significance and purpose of what is being done in these courts. In no other place or court can one see such large numbers of distraught people. In many instances, these courts are the only contact many citizens have with our form of justice. Justice William O. Douglas of the U.S. Supreme Court said, "The average person's contact with the law is in the Magistrate's Court or Traffic Court. It is the rare case which reaches the higher courts. It is in the lower courts that law and people most commonly meet. It is here that the public's impression of law and the administration of justice is mainly created. In the long view, the quality of justice administered, at that level, is a most important conditioner of public attitudes toward law and its enforcement."

Effective Date:

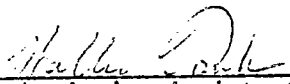
January -, 1981


Policy No.


81-DLCA-15

Page 5 of 5

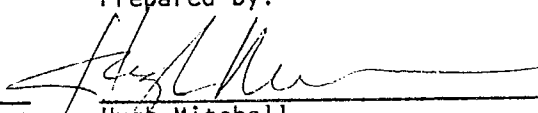
Approved by:


Walter Tank, Acting Assistant Director
Licenses Division


Vince Lombard, Assistant Director
Consumer Affairs/Central Services


Mike Burgwin, Manager
Animal Control Division

Prepared by:



Hugh Mitchell
Administrative Specialist

NOTICE: IF THE DOCUMENT IN THIS FRAME IS LESS CLEAR THAN THIS NOTICE,
IT IS DUE TO THE QUALITY OF THE DOCUMENT.

DEPARTMENT OF LICENSES AND CONSUMER AFFAIRS

DEPARTMENT POLICY AND PROCEDURE

Page 1 of 2

Subject: RESPONSES TO MAYOR'S OFFICE REQUESTS		Policy No: 81-DLCA-13R
Supercedes: All previous memoranda, policies or procedures, 81-DLCA-13.	Effective Date: March 1, 1982	
Purpose: To establish a procedure to respond to requests from the Mayor's Office in a timely fashion.	Reference: N/A	
	From:  Director	

1.0 POLICY:

1.1 It is the policy of this Department to respond to all reply requests from the Mayor's Office as quickly and efficiently as possible.

2.0 DEFINITIONS:

N/A

3.0 RESPONSIBILITY:

3.1 The Director, the Director's Secretary, Assistant Director, Managers, and Supervisors are responsible for carrying out the functions and duties outlined in this procedure.

4.0 PROCEDURE:

4.1 When a request is received from the Mayor's Office by the Director, the Director's Secretary will code it with a small orange dot, placing the date that the response is due back to the Secretary inside the dot. This date shall always be at least two (2) days prior to the date requested by the Mayor's Office for a return response.

4.2 The Director's Secretary will assign an Assistant Director/Manager or Supervisor to respond by the date marked in the small orange dot, and will make a copy of the request and place it in a "tickler" file. The original request will be forwarded to the Director for information before it is forwarded to the designated employee for response.

4.2.1 The designated employee will be requested to make the necessary investigation, gather information and prepare a draft response.

Effective Date:

March 1, 1982

Policy No.
81-DLCA-13R

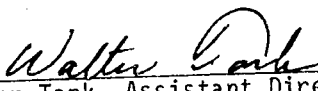
Page 2 of 2

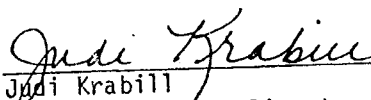
- 4.3 On or before the Secretary's due date, the assigned individual will respond either with the completed assignment, or with notification as to the reason the assignment will not be completed by the required deadline.
- 4.4 The Director's Secretary will type or have typed the response, submit it to the Director for an "o.k." on the draft, and then forward the original to the Mayor's Office, attention Correspondence Manager, always retaining one copy for the Administration files and one copy for the responder.
- 4.5 Should the response not be ready when due, it will be the responsibility of the Director's Secretary to contact the Correspondence Manager in the Mayor's Office, and to inform him/her of the delay. This must be done on or before the due date.
- 4.6 When a decision of priority on responses must be made, the following "Rule of Thumb" should apply:


Priority #1: Mayor's Office
Priority #2: City Council
Priority #3: Office of Management and Budget

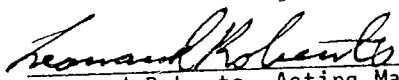
Approved by:

Prepared by:


Walter Tank, Assistant Director
License Division


Judi Krabill
Secretary to the Director

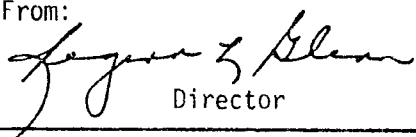

Mike Burgwin, Manager
Division of Animal Control


Leonard Roberts, Acting Manager
Administrative Services Division

DEPARTMENT OF LICENSES AND CONSUMER AFFAIRS

DEPARTMENT POLICY AND PROCEDURE

Page 1 of 2

Subject: ATTENDANCE REPORTING		Policy No: 81-DLCA-12R
Supersedes: All previous memoranda, policies and procedures, 81-DLCA-12	Effective Date: March 1, 1982	
Purpose: To provide a timely and accurate method for reporting daily staff attendance.	Reference: N/A	
	From:  Director	

1.0 POLICY:

- 1.1 It is the policy of this Department that an accurate record be kept of daily on-the-job attendance of staff for payroll purposes.

2.0 DEFINITIONS:

- 2.1 "Current schedule" is defined as form DLCA-ADM-DMC-6/80(REVISED)005 attached to this Policy statement as Appendix "A".

3.0 RESPONSIBILITY:

- 3.1 It is the responsibility of all Department Supervisors, the Department Receptionist, and the Department Payroll Clerk to carry out the provisions of this Policy.

4.0 PROCEDURE

- 4.1 Department Supervisors shall, on a bi-weekly basis, submit to the Payroll Clerk in writing a legible, accurate, and current schedule of their Section's staff on-the-job attendance.
- 4.2 Supervisors of Divisions located in the Municipal Building shall, by 8:30 A.M. of each working day, advise the Receptionist of any real or expected absences of any staff scheduled to work that particular day.
- 4.2.1 This daily absences report may be made by telephone.
- 4.3 Section heads of the Animal Control Division shall, by 8:30 A.M. of each working day, advise the Department Receptionist of any real or expected absences of any staff scheduled to work that particular day.

Effective Date:

March 1, 1982

Policy No.
81-DLCA-12R

Page 2 of 2

Approved by:

Walter Tank
Walter Tank, Assistant Director
License Division

Prepared by:

Judi Krabill
Judi Krabill, Secretary to the
Director

Leonard Roberts
Leonard Roberts, Acting Manager
Administrative Services Division

Mike Burgwin
Mike Burgwin, Manager
Division of Animal Control

Section:

Pay Period Ending

[illegible]

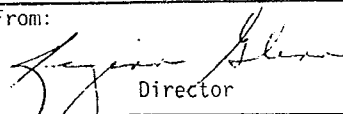
I certify that the above is a true and accurate record of each employee's work record for the stated period.

Supervisor

DEPARTMENT OF LICENSES AND CONSUMER AFFAIRS

DEPARTMENT POLICY AND PROCEDURE

Page 1 of 3

Subject: DATA PROCESSING REQUESTS		Policy No: 81-DLCA-11
Supersedes: N/A	Effective Date: July 1, 1981	
Purpose: To establish and provide each Division with a uniform method for requesting Data Processing services, for revising existing services, and for reporting problems.	Reference: N/A	
	From:  Director	

1.0 POLICY:

1.1 It is the policy of this Department to provide Data Processing services to all of its Divisions/Sections within the limits of the services available and for the purpose of improving the efficiency of an existing procedure or for introducing/initiating a new procedure which lends itself to Data Processing systems.

2.0 DEFINITIONS:

2.1 User Advisory Committee is defined as being composed of staff members appointed by the Department Director to perform the functions/responsibilities outlined in the Procedure below.

3.0 RESPONSIBILITIES:

3.1 It is the responsibility of the Department Director, the Data Processing Unit, Section Supervisors, and the User Committee to fulfill the functions outlined in the following Procedure.

4.0 PROCEDURE: (PROCEDURE FLOW-CHARTS ARE ATTACHED AS APPENDICES "B" AND "C".)

4.1 Division requests for Data Processing services, with the exception of regular scheduled program reports, shall be submitted to the Data Processing Unit of Central Services.

4.1.1 All requests shall be submitted on the special "Request for Data Processing Services" form attached to this policy and procedure statement as Appendix "A".

4.1.2 The Supervisor of the requesting Unit will:

4.1.2.1 Review the request.

4.1.2.2 Analyze the listed benefits.

4.1.2.3 Make any needed recommendations.

Effective Date:	Policy No.	
July 1, 1981	81-DLCA-11	Page2 of 3

4.1.2.4 Approve or disapprove the request, sign, and date the form.

4.1.2.5 Retain the goldenrod copy of the form and route the white, canary, and pink copies to the User Committee chairperson.

4.2 The User Committee shall at regular and/or special meetings:

4.2.1 Review the request.

4.2.2 Assess the impact of the request on the Division/Department.

4.2.3 Analyze the listed benefits of the service.

4.2.4 Make recommendations needed.

4.2.5 Retain the canary copy of the form with noted recommendation and disposition of the request.

4.2.5.1 If the request is approved, forward the pink and white copies of the form to the Department Director.

4.2.5.2 If the request is denied, forward the white copy to the requesting Unit and the pink copy to the Department Director with reason for denial.

4.3 The Department Director shall:

4.3.1 Review the request.

4.3.2 Accept the request as approved by the User Advisory Committee or request additional analysis of the request.

4.3.4 If approved, the Director shall route the white copy to the Data Processing Unit and retain the pink copy for the Director's file of Data Processing requests.

4.3.5 If the request is not approved, the Director shall state the reason and return both pink and white copies to the requesting Unit who will have the prerogative of resubmitting request and/or protesting the denial of the request.

4.4 The Data Processing Unit shall:

4.4.1 Upon receipt of the white copy of the approved request from the Director, fill out the log sheet in order to prioritize the request.

4.4.2 Meet with the requesting user to be sure all procedures and outcomes of the service are clear.

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Effective Date:

July 1, 1981

Policy No.

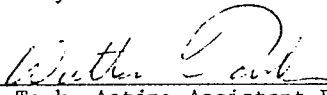
81-DLCA-11

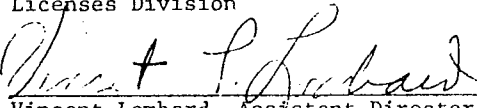
Page 3 of 3

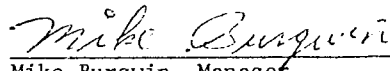
4.4.3 Submit a Systems Service Request form to the Department of Administrative Services/Information Systems Division, for estimate of service implementation costs.

4.4.3.1 Any further implementation of the request is the responsibility of the Information Systems Division and is dependent upon budget allocations, time constraints, and cost estimates.

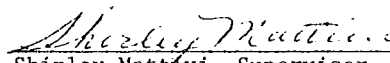
Approved by:


Walter Tank, Acting Assistant Director
Licenses Division


Vincent Lombard, Assistant Director
Consumer Affairs/Central Services


Mike Burgwin, Manager
Animal Control Division

Prepared by:


Shirley Mattivi, Supervisor
Data Processing Unit

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HFM/s (6/26/81)

APPENDIX "A"

DEPARTMENT OF LICENSES AND CONSUMER AFFAIRS

REQUEST FOR DATA PROCESSING SERVICES

Person requesting service	request date / /	required date / /
<input type="checkbox"/> new job <input type="checkbox"/> one time job <input type="checkbox"/> revision of existing job <input type="checkbox"/> problem report <input type="checkbox"/> other (specify) _____		

Description of Services Required and Benefits Derived

<input type="checkbox"/> Approved <input type="checkbox"/> Disapproved	Supervisor's signature _____ date / /
--	---------------------------------------

DATA PROCESSING EVALUATION

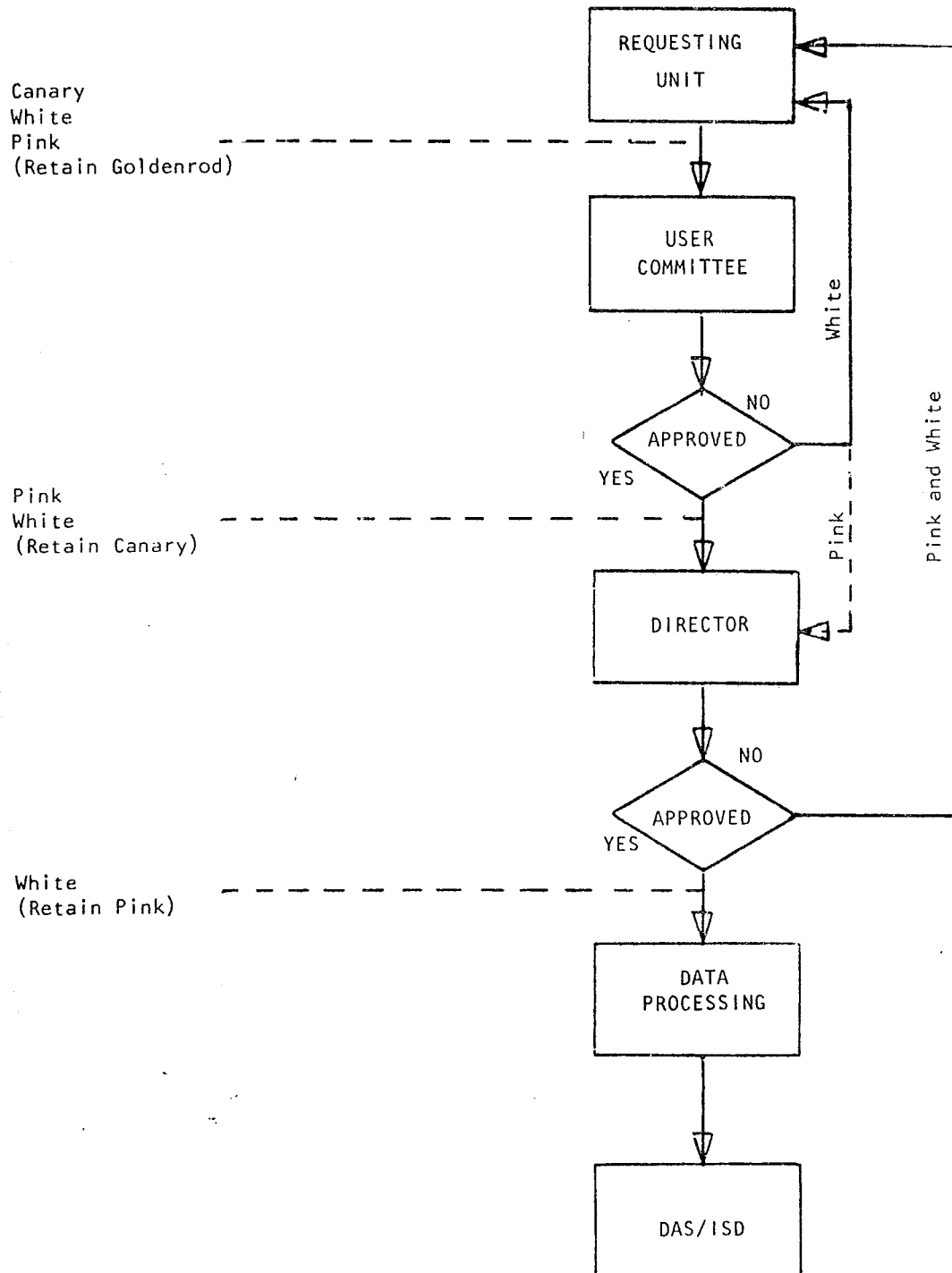
COST ESTIMATE \$	Data Processing Approval	date / /
------------------	--------------------------	----------

Final Authorization

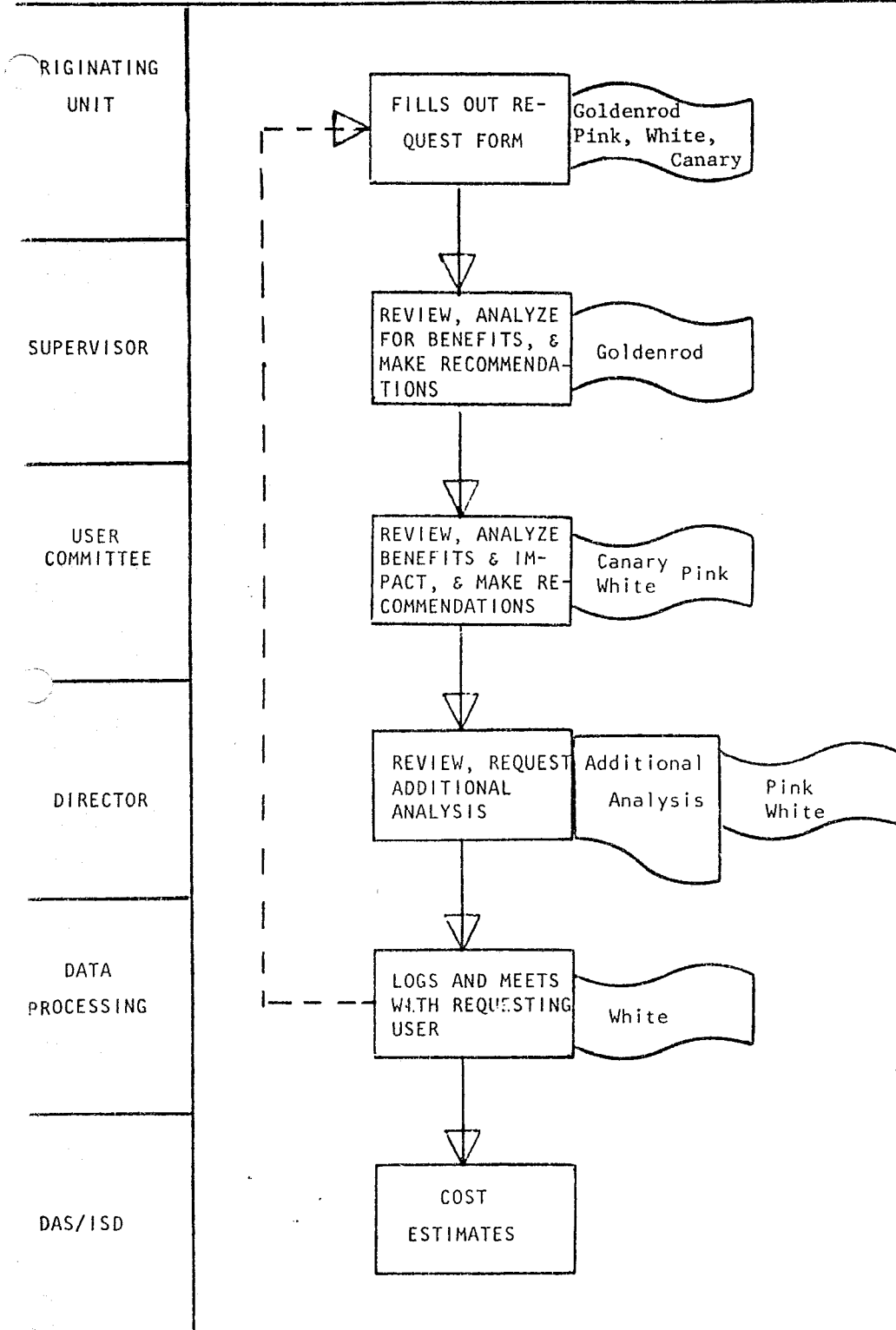
<input type="checkbox"/> Approved <input type="checkbox"/> Disapproved	Director's Approval _____ date / /
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APPENDIX "B"



APPENDIX "C"



Prepared by: H. Mitchell (6/26/81)

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DEPARTMENT OF LICENSES AND CONSUMER AFFAIRS

DEPARTMENT POLICY AND PROCEDURE

Page 1 of 2

Subject:
CLAIMING VEHICLES IMPOUNDED UNDER THE TOWING ORDINANCE

Policy No:
81-DLCA-10

Supersedes:
N/A

Effective Date:
November 1, 1981

Purpose:
To assure that impounded vehicles are returned to the proper persons.

Reference:

From:

Regina L. Cleary
Director

1.0 POLICY:

1.1 "In cases where ownership is unclear, the Contractor may request the Director to determine whether satisfactory evidence exists".

2.0 DEFINITIONS:

N/A

3.0 RESPONSIBILITY:

3.1 It will be the responsibility of the Assistant Director for Licenses, or his/her assignee, to effectuate the procedure as outlined herein.

4.0 PROCEDURE:

4.1 Before completing Vehicle Release Form (VRF), instruct the claimant to write a signed statement requesting release. Statement should include:

- o I.D., Name and Address.
- o An explanation of why registered owner cannot claim vehicle.
- o Specify how authority to claim vehicle is assumed by claimant.
- o Other supportive and verifiable information.
- o Signature and Date.

4.2 Complete Section I, CLAIMANT, on VRF as provided. Include case number, date and time. Verify validity of current driver's license, expiration date and date of birth (D.O.B.). Photocopy license.

NOTICE: IF THE DOCUMENT IN THIS FRAME IS LESS CLEAR THAN THIS NOTICE. IT IS DUE TO THE QUALITY OF THE DOCUMENT.

Effective Date:
November 1, 1981

Policy No.
81-DLCA-10

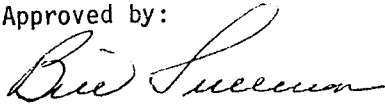
Page 2 of 2

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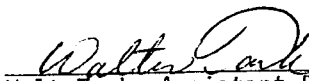
- 4.3 Telephone the Warrant Section (Ex. 2084) to determine if outstanding warrants are pending against the claimant.* If warrant(s) are pending, the Warrant Section will advise DLCA as to whether or not they wish to physically arrest the claimant; in such case, stall the claimant until Warrant Officers arrive.
- 4.4 Complete Section II, DETAINED VEHICLE, on VRF as provided. Verify related tow information with the Contractor by telephone. Inform Contractor of ongoing procedure, and that you will notify them of outcome.
- 4.5 Verify vehicle registration by calling either S.P.D. Data Distribution Center (Ex. 2006), and/or S.P.D. Auto Records (Ex. 4688). If vehicle is listed as stolen, or if vehicle has an S.P.D. HOLD on vehicle (Towing Contractor may have already informed claimant), do not authorize release; refer claimant to S.P.D., pending clearance.
- 4.6 Based upon a review of the information contained in Sections I and II, and upon the merits contained within the signed statement of the claimant, complete Section III, DISPOSITION, on VRF, and indicate the reasons for authorization or denial. Notify the Contractor of the outcome.

* A determination must be made whether the warrants would substantiate grounds for denial. For example, a warrant for auto theft would substantiate denial. However, a warrant for an overtime parking ticket might not. Discretion is advised. Consult your superior when necessary.

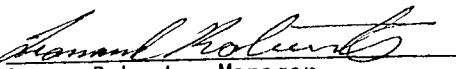
Approved by:



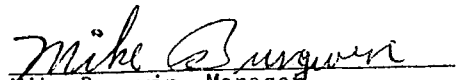
Bill Sullivan,
Weights & Measures Supervisor



Walt Tank, Assistant Director
for Licenses

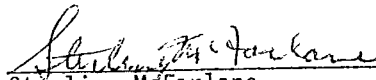


Lenny Roberts, Manager
Administrative Services Division



Mike Burgwin, Manager
Animal Control Division

Prepared by:



Sterling McFarlane
Weights & Measures Inspector

DEPARTMENT OF LICENSES AND CONSUMER AFFAIRS

DEPARTMENT POLICY AND PROCEDURE

Page 1 of 2

Subject: TEMPORARY USE OF CITY VEHICLES INCLUDING MOTOR POOL CARS

Policy No:
81-DLCA-09R

Supersedes: 80-DLCA-09

Effective Date:
March 1, 1982

Purpose:
To provide a procedure for the review of requests for temporary use of City vehicles, including overnight use and for one-day business trips to points outside the City.

Reference:
Ordinance 100458, SOP 121-08

From:

Regina L. Glenn
Director

1.0 POLICY:

1.1. It is the policy of this Department to permit temporary usage of City vehicles for special work-related situations in order to assist the Department in providing efficient and effective services.

2.0 DEFINITIONS:

2.0 A City vehicle is defined as a vehicle owned and maintained by the City of Seattle.

3.0 RESPONSIBILITIES:

3.1 It is the responsibility of an employee for whom temporary vehicle authorization has been approved to follow the steps for authorization and approval as outlined in this procedure.

4.0 PROCEDURE:

4.1 If a request for temporary vehicle authorization is for less than thirty (30) days, details should be recorded on Form No. CS-25.79, "Vehicle Special Assignment" (Appendix "B").

4.2 If the request for said authorization is for more than thirty (30) days, details should be recorded on Form CS-25.78, "Vehicle Assignment Request" (Appendix "A").

4.3 The request should provide justification for such vehicle usage, the length of the assignment, and appropriate employee data.

4.3.1 The justification must be reviewed and approved by the appropriate Supervisor, Assistant Director, or Manager and then forwarded to the Department Director for approval.

Effective Date:

March 1, 1982

Policy No.
81-DLCA-09R

Page 2 of 2

- 4.4 One copy of the form will be forwarded to the Department of Administrative Services (General Services Department) after approval.
- 4.5 Department copy will be kept on file by the Secretary to the Director.
- 4.6 One copy will be retained by the employee's immediate supervisor, following use by employee.
- 4.7 An explanation of any discrepancies in the contracted time frame will be reported by the supervisor.
- 4.8 Any unexplained discrepancies will be reported to the Department Director and the appropriate Assistant Director or Manager.
- 4.9 In the case of checking out a motor pool car, the following requirements must be fulfilled:
- 4.9.1 All drivers must have a valid Washington State driver's license.
- 4.9.2 One of the following (see Appendix "B" attached) must be presented at the time the car is checked out:
- 4.9.2.1 Photo ID/Authorization Card, or
- 4.9.2.2 City Driver's Permit, or
- 4.9.2.3 Vehicle Special Assignment Form CS 25.79.
- 4.9.3 If a car must be kept out overnight, a Vehicle Special Assignment form is required to authorize such use.
- 4.9.3.1 The form should be given to the motor pool clerk at the time the car is checked out.
- 4.9.3.2 If the overnight use is unforeseen, the Vehicle Special Assignment form is to be given to the pool office after the fact.

Approved by:

Walter Tank
Walter Tank, Assistant Director for
License Division

Leonard Roberts
Leonard Roberts, Acting Manager
Administrative Services Division

Mike Burgwin
Mike Burgwin, Manager
Animal Control Division

Prepared by:

Bill Sullivan
Bill Sullivan
Weights & Measures Supervisor

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City of Seattle
Department of General Services
VEHICLE ASSIGNMENT REQUEST

APPENDIX "A"

NO. _____

SEE NOTES ON REVERSE

REF. ORDINANCE 100458

DEPARTMENT AND DIVISION	ORIGINATOR	PHONE	DEPARTMENT HEAD APPROVAL	DATE
-------------------------	------------	-------	--------------------------	------

EMPLOYEE DUTIES REQUIRING ASSIGNMENT OF VEHICLE	PERIOD
	ANNUAL <input type="checkbox"/>
	SPECIFIED <input type="checkbox"/> FROM TO

TYPE VEHICLE REQUESTED	PAST YEAR	HRS./MO.	MILES/MO.	OVERNIGHT PARKING LOCATION
	VEHICLE USE	EST. THIS YEAR	HRS./MO.	
IMMEDIATE SUPERVISOR (2-10)		DRIVER JOB POSITION (11-25)		DRIVER NAME (26-40)

FOR OVERNIGHT AUTHORIZATION

REASON FOR OVERNIGHT AUTHORIZATION REQUEST

OPTIONAL ADDITIONAL INFORMATION

EST. FREQ. OF OFF-HOUR USAGE/MONTH FOR EMERGENCIES _____ FOR OTHER PURPOSES _____	PARKING LOCATION—RESIDENCE ADDRESS	MILES BETWEEN RESIDENCE AND ASSIGNED WORK STATION (41-43)
---	------------------------------------	--

FOR GENERAL SERVICES USE ONLY

DATE APPROVED	DATE ASSIGNED	TERMINATION DATE (44-49)	APPROVED <input type="checkbox"/> NOT APPROVED <input type="checkbox"/>		DIRECTOR OF GENERAL SERVICES	
DEPARTMENT CODE (50-51)	TYPE CODE (52-55)	EQUIP. NO. (56-61)	YEAR (62-63)	MAKE (64-67)		
TIME CODE (68-69)	DUR CODE (70-71)	PRI (72-73)	SEC (74-75)	ONITE CODE (76-77)	ZIP (78-80)	
SPECIAL CHARACTERISTICS	RADIO	LIGHTS	COLOR	DECALS	OTHER (SPECIFY)	

SUBMIT WHITE AND YELLOW COPIES TO GENERAL SERVICES DEPARTMENT, 809 MUNICIPAL BUILDING.
RETAIN PINK COPY FOR YOUR RECORD.
CS 25.78 REV. 4/72

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MOTOR POOL CAR
REQUIREMENTS



APPENDIX "B"

THE CITY OF SEATTLE	
Date Issued <u>4-15-81</u>	NUMBER <u>DAS</u>
Expiration Date	Nº 11399
NAME <u>ANITA C. LILLIG</u>	
IS QUALIFIED TO OPERATE A MOTOR VEHICLE for THE CITY OF SEATTLE subject to the provisions stated on the reverse side.	
State Lic. No. <u>L1-LL-1A-C422 CK</u>	
Tested By <u>[Signature]</u> Safety Office	



City of Seattle

NO _____

VEHICLE SPECIAL ASSIGNMENT

DEPARTMENT	REQUESTING SUPERVISOR	PHONE	DATE	DEPARTMENT HEAD APPROVAL
REASON FOR REQUEST				PERIOD
				FROM _____
				TO _____
VEHICLE NO.	DRIVER JOB POSITION		DRIVER NAME	
ADDRESS AT WHICH VEHICLE WILL BE LOCATED DURING NON-WORKING HOURS				

CERTIFICATE

TO BE USED TO AUTHORIZE OVERNIGHT, WEEKEND, OR SHORT TERM ASSIGNMENT OF 1 MONTH OR LESS.

CAN ALSO BE USED AS A TEMPORARY DRIVER'S AUTHORIZATION CARD.

I will not use the assigned vehicle for personal business or pleasure, and if so used, I shall be subject to disciplinary action.

Signed _____

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DEPARTMENT OF LICENSES AND CONSUMER AFFAIRS

DEPARTMENT POLICY AND PROCEDURE

Page 1 of 2

Subject:

USE OF CITY PROPERTY

Policy No:

81-DLCA-08R

Supersedes:

80-DLCA-08

Effective Date:

Purpose:

To provide a policy for lawful and authorized use of City-owned property, materials, and vehicles as required by City of Seattle Ordinance.

Reference: Ordinance #100458
Employment Policy #5.6
80-DLCA-05, 80-DLCA-09, and
81-AC-ADM-015

From:

James L. Plummer
Director

1.0 POLICY:

- 1.1 It is the policy of this Department that all City-owned property, materials, and vehicles shall be used exclusively for the conduct of municipal business.
- 1.2 It is the policy of this Department to conform to the standards established by Ordinance #100458 and City Employment Policy #5.6 as outlined in the Employee Handbook.

2.0 DEFINITIONS:

- 2.1 City property shall mean property of all descriptions and shall include but not be limited to land and buildings, vehicles, equipment, furniture, uniforms, and fixtures whether loaned, leased, purchased, or however legally obtained by the City of Seattle.
- 2.2 For purposes of this Procedure, City property does not include general disposable office supplies used in the normal conduct of day-to-day operations (pens, pencils, etc.).
- 2.3 Unauthorized use shall mean any use of City property not intended for the conduct of City business.

3.0 RESPONSIBILITY:

- 3.1 The Department Director shall control all City property assigned to the Department.
- 3.2 The Director may delegate such authority as is necessary for the assignment of City property to expedite the work of the Department.
- 3.3 Supervisors shall be responsible for City property assigned to their respective Divisions or Sections, and shall ensure that such property is properly maintained and used.
- 3.4 Each employee is responsible for all City property intended for his/her use and shall ensure that such property is maintained and used in conformance with this Policy and with safety procedures.

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Effective Date:

Policy No.

81-DLCA-08R

Page 2 of 2

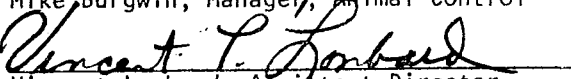
4.0 PROCEDURE:

- 4.1 Each supervisor or his/her designee shall maintain a current list of all equipment assigned to his/her Division or Section.
- 4.2 Requests for extraordinary use of City property shall be made to the Department Director through the Supervisor in charge of such property.
- 4.3 Each employee using City property shall report needed maintenance to the Supervisor in charge of the assigned property to ensure maximum life and safe use of such property.
- 4.4 When City property is no longer serviceable and not susceptible to repair, said property shall be disposed of by the Director in accordance with Department of Administrative Service procedures.
- 4.5 Loss of property shall be reported immediately to the employee's Supervisor.
 - 4.5.1 The Director may require the employee losing City property to deposit a sum with the City equal to the replacement cost of the lost property.
 - 4.5.2 Deposit shall be held by the Department for a period not to exceed one year. In the event of no further loss of property during this period, such deposit shall be refunded to the employee. In the event replaced property is lost, the deposit shall be forfeited to the Department.
- 4.6 All City property assigned to an employee shall be left at the employee's work station upon his/her separation from his/her Division or Section.
- 4.7 Use of the Department convenience copier(s) shall also be governed by Department Policy and Procedure #80-DLCA-05 and Animal Control Division Department Operating Instruction #81-AC-ADM-015.
- 4.8 Use of City vehicles shall also be governed by Department Policy and Procedure #80-DLCA-09.

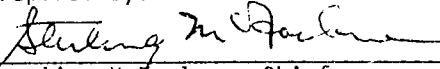
Approved by:


Walter Tank, Assistant Director for
Licenses


Mike Burgwin, Manager, Animal Control


Vincent Lombard, Assistant Director,
Central Services/Consumer Affairs

Prepared by:


Sterling McFarlane, Chief
Weights and Measures Section

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DEPARTMENT OF LICENSES AND CONSUMER AFFAIRS

DEPARTMENT POLICY AND PROCEDURE

Page 1 of 2

Subject:

SPECIAL POLICE COMMISSIONS

Policy No:

80-DLCA-20

Supersedes:

N/A

Effective Date:

December 26, 1980

Purpose:

To establish a uniform procedure for the request for and termination of Department Special Police Commissions for Animal Control Officers and Licenses and Standards Inspectors.

Reference: Ordinances Nos. 81599, 86749, 106615, 48022, 48022, 66888, and the City Charter.

From:

[Signature]
Director

1.0 POLICY:

1.1 It is the policy of this Department to provide its Animal Control Officers and Licenses and Standards Inspectors with commissions as Special Police Officers for the effective execution of their duties pursuant to the above referenced City Ordinances and the City of Seattle Charter.

2.0 DEFINITIONS:

N/A

3.0 RESPONSIBILITIES:

3.1 The Animal Control Enforcement Supervisor (immediate Supervisor of the Officer for whom Commission is being requested) and the License Enforcement Supervisor(s) (immediate Supervisor of the Inspector for whom Commission is being requested) are responsible for facilitating and processing all applications for Special Police Commissions.

3.2 The Director's Administrative Specialist is responsible for maintaining all records, letters, etc., pertaining to Special Police Commissions, said records to be filed in Administration.

4.1 PROCEDURE:

4.1 All requests for Special Police Commissions are to be made on Department of Licenses and Consumer Affairs Form ADM-RT-10/80-027 (attached as Appendix "A").

4.2 All requests are to be approved by the employee's immediate Supervisor, the Division head, and the Department Director.

4.3 The Director's Administrative Specialist will then prepare necessary correspondence needed to request the granting or termination of a Special Police Commission using the appropriate form letter(s) (attached as Appendices "B", "C", "D", and "E").

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Effective Date:

December 26, 1980

Policy No.

80-DLCA-20

Page 2 of 2

- 4.3.1 Said correspondence is to be prepared with the assistance of the immediate Supervisor of the Officer or Inspector for whom a Commission is being requested or terminated.
- 4.4 If a Commission is being terminated, the immediate Supervisor of the Officer or Inspector involved will obtain the surrender of the Special Police Badge and Special Police ID Card which were issued to the Officer or Inspector upon his/her appointment.
- 4.4.1 The immediate Supervisor of the Officer or Inspector involved will notify in writing, using the appropriate form letter, the Police Department and the Violations Bureau of the termination of the duties as a Special Police Officer of an employee in his/her respective Division.
- 4.4.1.1 Said letters are to be delivered to the Police Department and Violations Bureau by the immediate Supervisor of the Officer or Inspector involved.

Approved by:

Walter Tank
Walter Tank, Acting Assistant Director
Licenses Division

Vince Lombard
Vince Lombard, Assistant Director
Central Services/Consumer Affairs

Mike Burgwin
Mike Burgwin, Manager
Animal Control Division

Prepared by:

Hugh Mitchell
Hugh Mitchell
Administrative Specialist

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DEPARTMENT OF LICENSES & CONSUMER AFFAIRS

APPENDIX "A"

REQUEST FOR SPECIAL POLICE COMMISSION

Name _____ Date _____
Last First Middle

Position _____

Justification _____

Approved by:

Supervisor _____ Division Head _____ Director _____

Date Letter of Request Filed with Chief of Police _____

Date Commission Approved _____

Date Sworn by Comptroller _____

Badge No. _____ Special Police Commission Card Issued _____

Copy of Notice of Appointment Filed with Department _____ Copy Given to Officer _____

Department Serial No. Assigned _____ Letter of Notification to Violations Bureau Sent _____

Department ID Card Issued _____ Physical Description: Height _____ Weight _____ Hair _____

Eyes _____ Date of Birth _____

Officer has read and understands Guideline and Procedural Manual for Special Police Officers: _____

Copy of Special Police Commission Ordinance received by Officer: _____

Date _____ Form completed by: _____

Title _____

TERMINATION OF EMPLOYEE

1. Special Police Commission ID Card surrendered to SPD along with letter of notification _____
2. Surrendered to Department: Badge _____ Dept. ID Card _____
3. Letter of notification sent to Violations Bureau cancelling Department Serial No. of Officer _____

Date _____ Completed by _____

Title _____

DLCA-ADM-RT-10/80-027

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APPENDIX "B"

FORM LETTER #1 -- REQ. STING APPOINTMENT OF SPECIAL POLICE OFFICER

(Date)

(Name)

Chief of Police
Seattle Police Department
400 Public Safety Building
Seattle, Washington 98104

Attention: Personnel Division

Dear Chief:

I hereby certify that I have appointed, as of _____ (Date),
_____ (Name) to the position of _____ (Position Name)
in the Department of Licenses and Consumer Affairs.

(For Animal Control): The duties of this position include the enforcement of the provisions of the Animal Control Ordinance #81599, the "Leash Law" as contained in Ordinance #86749, the "Scoop Law" as contained in Ordinance #106615, and the dog and cat licensing requirements as contained in Ordinance #48022.

(For Licenses): The duties of this position include the enforcement of the provisions of the License Laws of the City which, pursuant to Section 21 of the License Code, Ordinance #48022, require the possession of a Special Police appointment and suitable badge.

I am requesting that _____ (Name) be appointed as a Special Officer in order to perform the duties as required by the provisions of Section 7-1 of Ordinance #66591 as amended by Ordinance #66888 and the City Charter.

Sincerely.

(Name)
Director

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FORM LETTER #2 -- ASSIGNMENT OF DEPARTMENT SERIAL NUMBER

(Date)

(Name), Manager
Complaint and Citation Processing Division
Ordinance Violations Department
100 Public Safety Building
Seattle, Washington 98104

Dear _____:

Effective _____ (Date), _____ (Name) has been
assigned Serial Number _____ in Precinct _____, the Depart-
ment of Licenses and Consumer Affairs.

We would appreciate your making the above addition to your records.

Sincerely,

(Name)
Director

APPENDIX "D"

FORM LETTER #3 -- RETURN OF SPECIAL POLICE ID CARD

(Date)

(Name),
Chief of Police
Seattle Police Department
400 Public Safety Building
Seattle, Washington 98104

Attention: Personnel Division

Dear Chief:

Returned herewith is Special Police ID Card Number _____
issued to _____ (Name) _____ of the _____ Division of the
Department of Licenses and Consumer Affairs. He/she was assigned to
Precinct # _____.

_____ is no longer employed in City Service
(Or: is no longer performing duties that require a Special Police
Commission).

Sincerely,

(Name)
Director

Note: On second (2nd) copy only --

Receipt Acknowledged:

By: _____
Title: _____
Date: _____

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APPENDIX "E"

FORM LETTER #4 -- DELETION OF SERIAL NUMBER

(Date) _____

(Name) _____, Manager
Complaint and Citation Processing Division
Ordinance Violations Department
100 Public Safety Building
Seattle, Washington 98104

Dear _____:

Effective (Date) _____, (Name) _____ has resigned
from City Service (Or: is no longer performing duties that require an
assigned Department Serial Number). He/she was assigned to Precinct
_____.

Please delete (Name) _____, Serial Number _____,
from your records.

Sincerely,

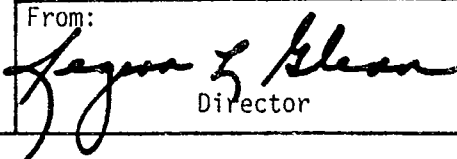
(Name) _____
Director

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DEPARTMENT OF LICENSES AND CONSUMER AFFAIRS

DEPARTMENT POLICY AND PROCEDURE

Page 1 of 2

Subject: COMPLAINTS/INQUIRIES FROM CITIZEN ASSISTANCE AGENCIES		Policy No: 80-DLCA-07
Supercedes: Procedure No. 80-DLCA-003	Effective Date: December 15, 1980	
Purpose: To establish and maintain a central reference file and procedure for handling incoming complaints/inquiries from recognized citizen assistance agencies (public or private), including a record of action taken and response given.	Reference: N/A	
	From:  Director	

1.0 POLICY:

1.1 It is the policy of this Department to process all complaints and inquiries in a responsible, efficient, and timely manner, and to the satisfaction of the inquirer or complainant.

2.0 DEFINITIONS:

2.1 Recognized agencies are defined as the Citizen Service Bureau, Seattle-King County Ombudsman, The Seattle Times "Troubleshooter," and the Seattle Post-Intelligencer "Action Column."

3.0 RESPONSIBILITY:

3.1 It is the responsibility of each Division and/or Section to process all incoming complaints and inquiries in accordance with the steps outlined in this procedure.

3.2 It is the responsibility of the Director's Secretary and/or his/her designee to coordinate incoming complaints/inquiries and to be the channel through which said complaints/inquiries are routed.

4.0 PROCEDURE:

4.1 Divisions and/or Sections receiving an incoming complaint/inquiry (C/I) from any recognized agency should route them through the Director's Secretary and/or his/her designee.

4.2 The Director's Secretary and/or his/her designee will assign a file number and a due date to the complaint/inquiry.

4.2.1 The Director's Secretary and/or designee will forward the complaint/inquiry to the appropriate Division for processing and handling.

4.2.1.1 A maximum of three (3) weeks will be allowed for each Division to handle the complaint/inquiry.

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Effective Date:

December 15, 1980

Policy No.

80-DLCA-07

Page 2 of 2

4.3 The Division and/or Section handling the complaint/inquiry will, upon completion:

4.3.1 Prepare a reply to the complaint/inquiry for the Director's signature.

4.3.2 Forward a copy of the reply to the Director's Secretary and/or designee for filing.

4.3.3 In the case of complaints/inquiries received from the Citizen Service Bureau, the Division and/or Section handling the complaint/inquiry will, upon completion:

4.3.3.1 Include the reply in the "Action Taken" space.

4.3.3.2 Submit all copies to the Director of signature.

4.3.3.3 Send the white, blue, and canary copies to the Citizen Service Bureau.

4.3.3.4 Forward the pink copy to the Director's Secretary and/or designee for filing.

Approved by:

Walter Tank
Walter Tank, Acting Assistant Director,
Licenses Division

Vince Lombard
Vince Lombard, Assistant Director,
Central Services/Consumer Affairs

Mike Burgwin
Mike Burgwin, Manager, Animal Control

Judi Krabill
Judi Krabill, Secretary to the
Director

Prepared by:

Hugh F. Mitchell
Hugh Mitchell
Administrative Specialist

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DEPARTMENT OF LICENSES AND CONSUMER AFFAIRS

DEPARTMENT POLICY AND PROCEDURE

Page 1 of 2

Subject:

CONVENIENCE COPIER USAGE

Policy No:

80-DLCA-05R

Supersedes:

Policy Number 80-002RG, 80-DLCA-05

Effective Date:

March 1, 1982

Purpose:

To provide a procedure for the proper and cost-effective use of the Department's convenience copier.

Reference:

N/A

From:

Stephen L. Blean
Director

1.0 POLICY:

1.1 It is the policy of this Department that the convenience copier be used only for departmental business purposes.

2.0 DEFINITIONS:

2.1 Auditron (key counter) designees with their respective Divisions/Sections are defined as those staff persons to whom auditrons are assigned as per the Department Director, and are:

2.1.1 License Administration: Secretary to the Assistant Director

Audit: Supervising Tax Auditor

Operations: Operations Lead

Enforcement: Supervisor

Data Processing: Data Processing Supervisor

Administrative Services: Secretary to the Manager

Administrative Services: Fiscal Section Supervisor

Administration: Secretary to the Director

Animal Control: Fiscal Section Supervisor

Citizens Service Bureau: Supervisor

UMTA: Project Coordinator

Weights & Measures: Supervisor

2.2 Key Operator designees are defined as:

2.2.1 Administrative Support Assistant, License Operations
Secretary to the Director (Alternate)
Secretary to the Assistant Director for Licenses (Alternate)
Secretary to the Manager for Administrative Services (Alternate)

2.3 Print Request designees are defined as:

2.3.1 Administrative Support Assistant, License Operations
Secretary to the Director (Alternate)
Secretary to the Assistant Director for Licenses (Alternate)

Effective Date:

March 1, 1982

Policy No.
80-DLCA-05R

Page 2 of 2

3.0 RESPONSIBILITY:

- 3.1 The key operator(s), designated by the Director, will assume responsibility for maintenance of the copy machine and the training of staff on proper usage techniques.
- 3.2 The key operator(s) are to be called upon for assistance in the event of any machine malfunction. Malfunctions needing attention by an authorized repair person shall be reported by the key operator(s) to the Fiscal Section, who will contact the repair person.
- 3.3 Each auditron designee will be responsible for:
 - 3.3.1 Auditron storage and safekeeping
 - 3.3.2 Assignment and usage
 - 3.3.3 Monthly reporting of machine usage to the Director

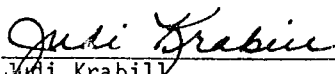
4.0 PROCEDURE:

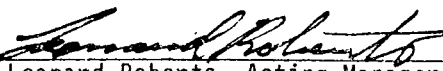
- 4.1 All auditrons (keyed counters) will be assigned to the designees by the Director.
- 4.2 The use of individual Section auditron keys will be restricted to personnel assigned to that individual Section.
- 4.3 Section usage reports will be submitted no later than the fifth (5th) day of the following month.
- 4.4 Any copying requiring twenty (20) copies or more per page will be submitted to the General Services Copy Center(s) by the Director's designee, with appropriate approval signature. Such print requests will be handled on a daily basis as the need arises.
- 4.5 The Animal Control Division will maintain its own copier according to the cost-effective procedures outlined in this policy statement.

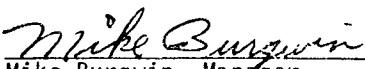
Approved by:

Prepared by:


Walter Tank, Assistant Director
License Division


Judi Krabily
Administrative Secretary


Leonard Roberts, Acting Manager
Administrative Services

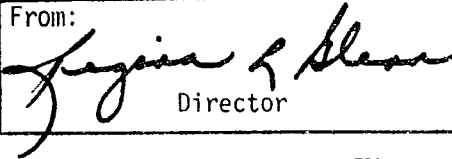

Mike Burgwin, Manager
Division of Animal Control

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DEPARTMENT OF LICENSES AND CONSUMER AFFAIRS

DEPARTMENT POLICY AND PROCEDURE

Page 1 of 3

Subject: DEPARTMENT COMMITTEES		Policy No: 80-DLCA-04R
Supersedes: Policy No. 80-DLCA-01, 80-DLCA-04	Effective Date: March 1, 1982	
Purpose: To identify Department committee meeting times and dates. To identify the representative makeup of each committee.	Reference: Department Policy & Procedure #80-DLCA-03R	
	From:  Director	

1.0 POLICY:

- 1.1 It is the policy of this Department to reserve adequate meeting times on a regular basis for its various standing committees.
- 1.2 It is also the policy of this Department that each of its standing committees and/or task forces have adequate representation from among staff members concerned with a particular committee's function and whose position and responsibilities within the Department coincide with a committee's function and/or task.

2.0 DEFINITIONS:

- 2.1 See Department Policy and Procedure 80-DLCA-03R for definition of standing Department committees and task forces.

3.0 RESPONSIBILITY:

- 3.1 See Department Policy and Procedure 80-DLCA-03R for responsibilities of standing committee/task force members.

4.0 PROCEDURE:

- 4.1 The monthly meeting dates and times of each committee/task force shall be in accordance with the matrix calendar attached to this procedure as "Appendix A."
- 4.2 Representation on each committee/task force shall be as follows:

<u>Committee</u>	<u>Representation</u>
Accident Review Board	See Department Policy & Procedure 81-DLCA-16R

Effective Date:

March 1, 1982

Policy No.
80-DLCA-04R

Page 2 of 3

Committee

Representation

Animal Control
Roundtable - Division
of Animal Control

All Animal Control personnel except those
needed to provide minimum coverage.

Code Revision Advisory
Board

Director, Assistant Director of License
Division, License Operations Supervisor,
others as appointed by Director.

Division Update (DUD) -
Division of Animal
Control

All Animal Control personnel except those
needed to provide minimum coverage.

Employee Representa-
tives Committee

Shop Stewards of Locals #17, #21 and #763.

Executive Management
Team

Director, Assistant Director/Managers,
Secretary to the Director.

Human Resource
Development Committee

Minimum of two representatives from each
Division chosen from among volunteers and
Committee nominations.

Program Update (PUD) -
Division of Animal
Control

Manager, Administrative Assistant, Section
heads, Unit leaders.

Safety & Health
Committee

See Department Policy & Procedure
81-DLCA-16R.

Senior Management Team

Director, Director's Secretary, Assistant
Director/Managers, all Supervisors and Line
Supervisors from each Division. Staff may
be brought on a rotating schedule as deemed
appropriate by Supervisors.

Sunbeam Committee -
Division of Animal
Control

One representative elected by each Section
at the Division of Animal Control.

Sunshine Committee

Minimum of two representatives from the
Divisions of Licenses, Administrative
Services and Administration, appointed
by their respective Division heads.

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Effective Date:

March 1, 1982

Policy No.

80-DLCA-04R

Page 3 of 3

Committee

Representation

Task Assignment Review -
(TAR) - Division of
Animal Control

Manager, Administrative Assistant, Section
heads.

Approved by:

Walter Tank

Walter Tank, Assistant Director
License Division

Leonard Roberts

Leonard Roberts, Acting Manager
Administrative Services Division

Prepared by:

Mike Burgwin

Mike Burgwin, Manager
Division of Animal Control

Judith Krabill

Judi Krabill
Administrative Secretary

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MONTHLY COMMITTEE MEETING SCHEDULE

	1ST WEEK	2ND WEEK	3RD WEEK	4TH WEEK	LAST WEEK
MONDAY	TAR 8:30-9:30 CONSUMER PROTECTION ROUNDTABLE 2:00-4:00	TAR 8:30-9:30	TAR 8:30-9:30	TAR 8:30-9:30	TAR 8:30-9:30
TUESDAY	TAR 8:30-9:30 EMT 9:30-11:00 SAFETY COMMITTEE 1:00	TAR 8:30-9:30 DP CORE 8:30-9:30 SPT 9:30-11:30	TAR 8:30-9:30 EMT 9:30-11:00 SAFETY COMMITTEE 1:00	TAR 8:30-9:30 ADMINISTRATIVE SERVICES STAFF 8:30-9:30 EMT 9:30-11:00	TAR 8:30-9:30 EMT 9:30-11:00 DUD 1:30-2:30 (odd months only) ANIMAL CONTROL ROUNDTABLE 1:30-2:30 (even months only) SLAB* 3:00-5:00
WEDNESDAY	PUD 11:00-12:00 DAC ANIMAL CARE 1:30-2:30 CODE REVISION ADVISORY BOARD(CRAB) 3:00-5:00	PUD 11:00-12:00 DAC ANIMAL CARE 1:30-2:30	PUD 11:00-12:00 DAC ANIMAL CARE 1:30-2:30	PUD 11:00-12:00 DAC ANIMAL CARE 1:30-2:30	PUD 11:00-12:00 DAC ANIMAL CARE 1:30-2:30
THURSDAY	OPERATIONS STAFF 8:00-9:00 TAR 8:30-9:30 ENFORCEMENT STAFF 2:30-5:00	OPERATIONS STAFF 8:00-9:00 TAR 8:30-9:30 ENFORCEMENT STAFF 2:30-5:00	OPERATIONS STAFF 8:00-9:00 TAR 8:30-9:30 ENFORCEMENT STAFF 2:30-5:00	OPERATIONS STAFF 8:00-9:00 TAR 8:30-9:30 ENFORCEMENT STAFF 2:30-5:00	OPERATIONS STAFF 8:00-9:00 TAR 8:30-9:30 ENFORCEMENT STAFF 2:30-5:00
FRIDAY	TAR 8:30-9:30 DAC OPERATIONS 10:30-11:30 DAC REGULATORY 1:30-2:30	TAR 8:30-9:30 DAC OPERATIONS 10:30-11:30 DAC REGULATORY 1:30-2:30	TAR 8:30-9:30 HRD 10:00-12:00 DAC OPERATIONS 10:30-11:30 DAC REGULATORY 1:30-2:30	TAR 8:30-9:30 DAC OPERATIONS 10:30-11:30 DAC REGULATORY 1:30-2:30	TAR 8:30-9:30 DAC OPERATIONS 10:30-11:30 DAC REGULATORY 1:30-2:30

ACCIDENT REVIEW BOARD

ON CALL

SUNSHINE COMMITTEE

ON CALL

EMPLOYEE REPRESENTATIVE COMMITTEE

ON CALL

TAR ADVISORY GROUP

AS NEEDED

SUNBEAM COMMITTEE

ON CALL

TAXI INDUSTRY LIAISON GROUP

AS NEEDED

*SLAB - Steam License Advisory Board

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DEPARTMENT OF LICENSES AND CONSUMER AFFAIRS

DEPARTMENT POLICY AND PROCEDURE

Page 1 of 2

Subject:

STAFF PARTICIPATION ON COMMITTEES DURING
REGULAR WORKING HOURS

Policy No:
80-DLCA-03R

Supersedes: Policy No. 80-001RG, 80-DLCA-03

Effective Date:
March 1, 1982

Purpose:

To establish a policy clarifying the parameters
of staff participation on standing Department
committees, special Department committees, task
forces, and City-sponsored employee committees.

Reference:

N/A

From:

Regina L. Kline
Director

1.0 POLICY:

- 1.1 As proponents of participatory management, it is the policy of this administration that Department employees who volunteer or are selected to serve on standing Department committees or on City-sponsored employee committees will be allowed regular work time to carry out committee responsibilities.

2.0 DEFINITIONS

- 2.1 Standing Department committees and task forces shall be defined as:

- 2.1.1 Executive Management Team (EMT)
Senior Management Team (SMT)
Human Resource Development Committee (HRD)
Sunshine Committee/Sunbeam Committee
Employee Representatives Committee
Safety and Health Committee and its Sub-committee
Others as they are formed.

- 2.2 City-sponsored employee committees are defined as:

- 2.2.1 Credit Union Representatives Committee
Credit Union Board of Directors
Retirement Board
Civil Service Commission
Suggestion Award Board
Others deemed appropriate by the Director

3.0 RESPONSIBILITIES:

- 3.1 Responsibilities of committee membership will include attending meetings, working on reports, data collection, etc., which impact the purpose of a committee.

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Effective Date:

March 1, 1982

80-DLCA-03R

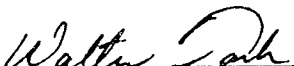
Page 2 of 2

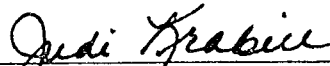
4.0 PROCEDURE:


- 4.1 Employee participation on a special Department committee and/or task force will be determined on an individual case basis at the discretion of the employee and his/her immediate Supervisor.
- 4.2 In a clearly emergent work situation, a committee member may, by notifying his/her chairperson at least one (1) hour before a scheduled meeting and at least four (4) hours before a major committee activity, excuse him/herself from immediate committee responsibilities.
- 4.3 Work time utilized for committee and/or task force participation will be considered and recorded as regular work time, and will not be subject to any makeup time beyond an employee's full or part-time work schedule.


Approved by:

Prepared by:


Walter Tank, Assistant Director
License Division


Judi Krabill
Administrative Secretary


Leonard Roberts, Acting Manager
Administrative Services Division


Mike Burgwin, Manager
Division of Animal Control

NOTICE: IF THE DOCUMENT IN THIS FRAME IS LESS CLEAR THAN THIS NOTICE,
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DEPARTMENT OF LICENSES AND CONSUMER AFFAIRS

DEPARTMENT POLICY AND PROCEDURE

Page 1 of 3

Subject: DEPARTMENT OPERATING INSTRUCTIONS

Policy No:
80-DLCA-02R

Supersedes: #80-DLCA-002R, 80-DLCA-02

Effective Date:
March 1, 1982

Purpose:
To establish uniformity in the development and presentation of Department Operating Instructions statements for individual Divisions and/or Sections.

Reference:
City of Seattle Standard
Operating Procedure #100-01

From:

Regina L. Elean
Director

NOTICE: IF THE DOCUMENT IN THIS FRAME IS LESS CLEAR THAN THIS NOTICE,
IT IS DUE TO THE QUALITY OF THE DOCUMENT.

1.0 POLICY:

- 1.1 It is the policy of this Department to conform to the City of Seattle Standard Operating Procedure in the development and presentation of Department Operating Instructions in terms of stated and uniform contents of said Instructions.

2.0 DEFINITIONS:

- 2.1 A Department Operating Instructions statement is defined as those instructions which will be used to document the day-to-day activities of a particular Division or Section. These instructions are more detailed than Department Policy and Procedure statements (See #80-DLCA-01), are intra-departmental in nature, and outline daily job instructions of a particular Division or Section.

- 2.2 The policy statement will precede the procedural statement.

3.0 RESPONSIBILITY:

- 3.1 It is the responsibility of any staff member preparing a Department Operating Instruction to conform to this procedure in the writing and presentation of said Instruction.

4.0 PROCEDURE:

- 4.1 All Instructions will be prepared and published on the appropriate pre-printed form. An example of this form is attached as Appendix "A". The Division/Section name should follow the title.

- 4.1.1 Pertinent heading boxes are to be completed.

- 4.1.1.1 Subject -- The topic or theme of the Instruction

- 4.1.1.2 DOI Number -- Number assigned in accordance with the following numbering procedure. (See 4.2.)

Effective Date:

March 1, 1982

Policy No.
80-DLCA-02R

Page 2 of 3

4.1.1.3 Supersedes -- Refer to any prior memoranda, directives, documents, or Operating Instructions which the current Instruction being prepared replaces or supplements.

4.1.1.4 Purpose -- A brief, clear, concise description of the objective or intent. An explanation of the need and/or reason for the Instruction.

4.1.1.5 Reference -- A listing of those documents (ordinances, other Department Instructions or Policy statements, documents that provide the need for the Instruction) which are integral to or are affected by the text.

4.1.2 The body of the Department Operating Instruction is to contain the following subdivisions:

4.1.2.1 Policy Statement, Definitions, Responsibility, Procedure, and Appendix (optional). The content of these subdivisions is outlined in Department Policy and Procedure #80-DLCA-01 (page 2).

4.2 Department Operating Instruction statements are to be numbered sequentially in the "DOI No." box according to the following formula:

4.2.1 Last two digits of the current year.

4.2.2 Letter code to designate the Division (AC, LIC, AS).

4.2.3 Letter code to designate the Section originating the Operating Instruction, i.e., PL (Pet Licenses), WM (Weights and Measures), etc.

4.2.4 Each Section will assign an Instruction number in ascending order as each Instruction is documented. Example: 80-AC-PL-01, 80-AC-PL-02, etc. The Director's designee will maintain a log of all Operating Instruction statements giving Instruction number, by whom prepared, status (draft, pending, published, etc.), and subject of the Operating Instruction.

4.3 Sign as preparer in the lower right corner of the last page of the Instruction, i.e., "Prepared by: _____ with name and title typed underneath the signature line.

4.4 Obtain the Division Assistant Director and/or Manager endorsement, and that of the Section Supervisor, with their approval indicated in the lower left corner of the statement, i.e., "Approved by: _____" with name(s) and title(s) typed underneath the signature line(s).

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Effective Date:

March 1, 1982

Policy No.

80 DLCA-02R

Page 3 of 3

- 4.5 Refer to Director for his/her approval and signature on the first page of the form.
- 4.6 Upon approval, copy for distribution according to the following color formula:
- 4.6.1 Beige -- Animal Control
 - Blue -- Licenses
 - Yellow -- Administrative Services
- 4.7 Distribute copy of Instruction to Assistant Director/Managers and to all Supervisors.
- 4.8 The original Operating Instruction will be maintained by the Director's designee in a Department Master Procedure Manual.
- 4.9 Procedural/Operating Instruction manuals will be maintained in each Division and Division Section.
- 4.10 When making a change to any approved Operating Instruction:
- 4.10.1 Use the same Procedure Number followed by an "R" (for "revised").
 - 4.10.2 Indicate in the "Supercedes" box the original Procedure number and its date as the one being superceded.
 - 4.10.3 Establish the effective date of the revised Operating Instruction.

Approved by:

Walter Tank
Walter Tank, Assistant Director
License Division

Prepared by:

Judi Krabill
Judi Krabill
Administrative Secretary

Leonard Roberts
Leonard Roberts, Acting Manager
Administrative Services Division

Mike Burgwin
Mike Burgwin, Manager
Division of Animal Control

NOTICE: IF THE DOCUMENT IN THIS FRAME IS LESS CLEAR THAN THIS NOTICE, IT IS DUE TO THE QUALITY OF THE DOCUMENT.

DEPARTMENT OF LICENSES AND CONSUMER AFFAIRS

DEPARTMENT POLICY AND PROCEDURE

Page 1 of 3

Subject: DEPARTMENT POLICY AND PROCEDURE STATEMENTS

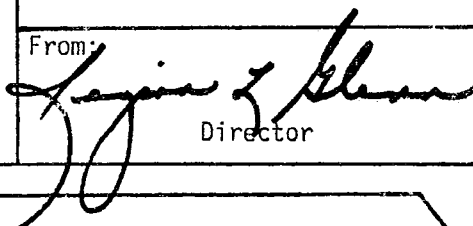
Policy No:
80-DLCA-01

Supercedes: #80-DLCA-002R

Effective Date:
December 15, 1980

Purpose:
To establish uniformity in the development and presentation of Department-wide Policy and Procedure statements.

Reference:
City of Seattle Standard
Operating Procedure #100-001

From:

Director

1.0 POLICY:

1.1 It is the policy of this Department to conform to the City of Seattle Standard Operating Procedure in the development and presentation of Department Policy and Procedure statements in terms of stated and uniform contents of said statements.

2.0 DEFINITIONS:

2.1 A Department Policy and Procedure statement is defined as a two-part statement used to set forth general, Department-wide policy and the operational procedures designed to accomplish the desired purpose. The policy statement will precede the procedural statement. These statements are intra-Departmental in nature and govern intra-Departmental operations.

3.0 RESPONSIBILITY:

3.1 It is the responsibility of any staff member preparing Department Policy and Procedure statements to conform to this procedure in the writing and presentation of said statements.

4.0 PROCEDURE:

4.1 All statements will be prepared and published on the appropriate pre-printed form. This form on which this Department Policy and Procedure statement is written serves as an example.

4.1.1 Pertinent heading boxes are to be completed.

4.1.1.1 Subject -- The topic or theme of the statement.

4.1.1.2 Policy Number -- Number assigned in accordance with the following numbering procedure. (See 4.2.)

4.1.1.3 Supercedes -- Refer to any prior memoranda, directives, documents, or policy statements/procedures which the current statement being prepared replaces or supplements.

NOTICE: IF THE DOCUMENT IN THIS FRAME IS LESS CLEAR THAN THIS NOTICE, IT IS DUE TO THE QUALITY OF THE DOCUMENT.

Effective Date:

December 15, 1980

Policy No.

80-DLCA-01

Page 2 of 3

4.1.1.4 Purpose -- A brief, clear, concise description of the objective or intent. An explanation of the need and/or reason for the policy procedure.

4.1.1.5 Reference -- A listing of those documents (ordinances, other Department Policy and Procedure statements, documents that provide the need for the policy) which are an integral part of or are affected by the text.

4.1.2 The body of the Policy and Procedure statement is to contain the following:

4.1.2.1 Policy Statement -- A summary statement of the total area or field within which the subject activity of the procedure will function. This area should also describe any unique or special application of the procedure.

4.1.2.2 Definitions -- Terms or concepts should be defined when such are required to understand the procedure.

4.1.2.3 Responsibility -- Since many procedures entail coordinated activity by distinct Divisions or Sections, this section will define lines of demarcation. It also lists responsibilities of individual staff members in carrying out the provisions of the Policy and Procedure statement.

4.1.2.4 Procedure -- A particular course of action or the ways the actions must be carried out. Show what is to be done, who performs the actions, and provide either a broad description of the sequence or a flow chart of actions which must take place.

4.1.2.5 Appendix (optional) -- Attached supplementary material.

4.2 Department Policy and Procedure statements are to be numbered sequentially in the "Policy No." box according to the following formula:

4.2.1 Last two digits of the current year.

4.2.2 Letter code to designate the Department (DLCA).

4.2.3 Number (two digits) in ascending order as each statement is documented. The Director's designee will maintain a log of all Policy and Procedure statements giving statement number, by whom prepared, status (draft, pending, published, etc.), and subject of the statement.

NOTICE: IF THE DOCUMENT IN THIS FRAME IS LESS CLEAR THAN THIS NOTICE, IT IS DUE TO THE QUALITY OF THE DOCUMENT.

Effective Date:

December 15, 1980

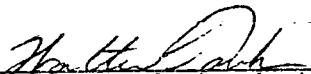
Policy No.

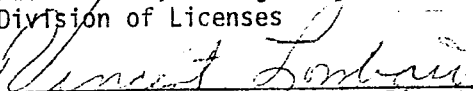
80-DLCA-01

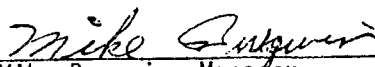
Page 3 of 3

- 4.3 Sign as preparer in the lower right corner of the last page of the statement, i.e., "Prepared by: _____." with name and title typed underneath the signature line.
- 4.4 Obtain Assistant Directors' and Manager's endorsement and approval in the lower left corner of the statement, i.e., "Approved by: _____." with name(s) and title(s) typed underneath the signature line(s).
- 4.5 Refer to Director for his/her approval and signature on the first page of this form.
- 4.6 Upon approval, copy for distribution on green bond.
- 4.7 Distribute copy of statement to Assistant Directors/Manager and to all Supervisors.
- 4.8 The original statement will be maintained by the Director's designee in a Department Master Procedure Manual.
- 4.9 Procedural manuals will be maintained in each Division and Division Section.
- 4.10 When making a change to any approved statement:
 - 4.10.1 Use the same Policy Number followed by an "R" (for "revised").
 - 4.10.2 Indicate in the "Supercedes" box the original statement and its date as the one being superceded.
 - 4.10.3 Establish the effective date of the revised statement.

Approved by:


Walter Jank, Acting Assistant Director
Division of Licenses


Vincent Lombard, Assistant Director
Central Services/Consumer Affairs


Mike Burgwin, Manager
Animal Control

Prepared by:


Hugh Mitchell
Administrative Specialist

NOTICE: IF THE DOCUMENT IN THIS FRAME IS LESS CLEAR THAN THIS NOTICE.
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**Your
Seattle**
Department of Licenses and Consumer Affairs

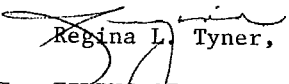
Regina L. Tyner, Director
Charles Royer, Mayor



December 31, 1985

M E M O R A N D U M

TO: The Honorable Tim Hill
Seattle City Clerk

FROM:  Regina L. Tyner, Director

SUBJECT: FILING OF REVISED RULES AND REGULATIONS TO IMPLEMENT
SMC, CHAPTER 5.44

Attached is a true and exact copy of the revised Rules and Regulations implementing the Seattle Municipal Code, Chapter 5.44 (Business and Occupation Tax) to be filed with your office. These rules are effective January 1, 1986.

A public hearing was held by our Department on December 30, 1985. We have enclosed a copy of the "Affidavit of Publications" and public notice.

RLT:dhv

Attachments

FILED
CITY OF SEATTLE
1986 JAN -3 AM 10:52
COMPTROLLER AND CITY CLERK

NOTICE: IF THE DOCUMENT IN THIS FRAME IS LESS CLEAR THAN THIS NOTICE.
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An equal employment opportunity - affirmative action employer

City of Seattle--Department of Licenses and Consumer Affairs, 102 Seattle Municipal Building, Seattle Washington 98104 (206) 625-2536/625-5500

NOTICE: IF THE DOCUMENT IN THIS FRAME IS LESS CLEAR THAN THIS NOTICE.
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C-490

Affidavit of Publication

City of Seattle

PUBLIC NOTICE

Pursuant to rule making authority established by Seattle Municipal Code 6.48.040.E.5 and per Seattle Administrative Code SMC 3.02.030, the following rules will be presented at a public hearing to be held at the Department of Licenses and Consumer Affairs Conference Room, 102 Municipal Building, Seattle, WA 98104, at 2 p. m. on Monday, December 21, 1987.

PUBLIC GARAGE RULES

RULE 6.48.040.E.5-1

A charge for parking will include any additional charges demanded or collected for insufficient payment of the parking fee. The public notice required under SMC 6.48.040.E shall show at minimum the name, address and telephone number of the person authorized to demand the insufficient payment fee and will show the amount of fee to be charged for insufficient payment.

RULE 6.48.040.E.5-2

A public notice sign shall be posted at each pay box or meter indicating the public garage's or parking lot's non-payment collection procedure in lieu of impoundment. The sign shall be clearly readable, approved by the Director, and shall state:

CUSTOMER NON-PAYMENT NOTICE

In lieu of impoundment for non-payment, a collection fee of \$XX.XX (fee schedule) will be charged. If you wish to contest this charge, please call: (List: company name, company address, contact telephone.) If a satisfactory resolution cannot be reached, you still retain the right to seek redress in Small Claims Court.

Date of publication in the Seattle Daily Journal of Commerce, December 7, 1987.
(C-490)

STATE OF WASHINGTON KING COUNTY—SS.

The undersigned, on oath states that he is an authorized representative of The Daily Journal of Commerce, a daily newspaper, which newspaper is a legal newspaper of general circulation and it is now and has been for more than six months prior to the date of publication hereinafter referred to, published in the English language continuously as a daily newspaper in Seattle, King County, Washington, and it is now and during all of said time was printed in an office maintained at the aforesaid place of publication of this newspaper. The Daily Journal of Commerce was on the 12th day of June, 1941, approved as a legal newspaper by the Superior Court of King County.

The notice in the exact form annexed, was published in regular issues of The Daily Journal of Commerce, which was regularly distributed to its subscribers during the below

stated period. The annexed notice, a

.....Public Notice.....

.....was published on December 7, 1987.....

.....
Subscribed and sworn to before me on

.....
December 7, 1987

.....
Notary Public for the State of Washington,
residing in Seattle.

Office of the Comptroller
City of Seattle

Norward J. Brooks, Comptroller



M E M O R A N D U M

Date: October 3, 1986
To: All Department Directors
From: Norward J. Brooks, City Comptroller *NJB*
Subject: Filing of new and revised rules

According to Municipal Code Chapter 3.02.060, each City department shall file its rules with the City Comptroller who shall make such rules available for public inspection during regular business hours. City rules not filed with the Comptroller are not valid and cannot legally be enforced.

Please verify that all rules promulgated or revised by your department during the last year have been filed with this office. For further information contact Margaret Carter, extension 2798.

JL/MS275.1

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C-340

Affidavit of Publication

City of Seattle

PUBLIC NOTICE OF ADMINISTRATIVE RULE RE: PANORAM LICENSES

City of Seattle Department of
Licenses and Consumer Affairs

The Seattle Municipal Code (SMC 6.02.050) authorizes the Director to make rules regarding the Panoram Ordinance. A Public Hearing will be held on Friday, February 21, 1986 at 2:00 p. m. in the Municipal Building Conference Room A (Basement Level), Seattle, Washington 98104, to discuss the Repeal of Administrative Rule which, as follows, clarified the configuration specification of Panoram booths.

Repeal the following:

Rule 6.42.070(u) — For the purpose of this section, "entrance to the premises" will mean the entrance to the panoram booth.

Date of publication in the Seattle Daily Journal of Commerce, February 4, 1986.
(C-340)

STATE OF WASHINGTON KING COUNTY—SS.

The undersigned _____ doath states that he is an authorized representative of _____ Daily Journal of Commerce, a daily newspaper, which _____ is a legal newspaper of general circulation and it _____ and has been for more than six months prior to the _____ of publication hereinafter referred to, published in the English language continuously as a daily newspaper in Seattle, King County, Washington, and it is now and during all of said time was printed in an office maintained at the aforesaid place of publication of this newspaper. The Daily Journal of Commerce was on the _____ day of June, 1941, approved as a legal newspaper by the Superior Court of King County.

The notice in the exact form annexed, was published in regular issues of The Daily Journal of Commerce, which was regularly distributed to its subscribers during the below stated period. The annexed notice, a _____

_____ Public Notice _____

_____ was published on February 4, 1986 _____

_____ Subscribed and sworn to before me on _____

_____ February 4, 1986 _____

Notary Public for the State of Washington,
residing in Seattle.

RECEIVED AND FILED

1986 FEB 21 AM 9:33

CITY OF SEATTLE

FILED

NOTICE: IF THE DOCUMENT IN THIS FRAME IS LESS CLEAR THAN THIS NOTICE, IT IS DUE TO THE QUALITY OF THE DOCUMENT.

C-208

Affidavit of Publication

City of Seattle

ADMINISTRATIVE RULING NOTICE
Department of Licenses and Consumer Affairs

Notice of Proposed Rule Making

The Director of Licenses & Consumer Affairs, acting under the authority of SMC 5.44.240 and 5.44.205, proposes to adopt new rules for implementing the Seattle Business Tax Ordinance (Seattle Municipal Code (SMC) Chapter 5.44). The proposed rules, when promulgated, would revise the existing rules implementing the Seattle Business Tax Ordinance by amending Rule 1(a), which adopts all or part of various Business and Occupation tax rules of the State of Washington Department of Revenue, in order to reflect revisions of WAC Chapter 458-20.

The public may inspect copies of the proposed rules at the Department of Licenses and Consumer Affairs, Room 102, Seattle Municipal Building, 600 Fourth Avenue, Seattle, Washington 98104. In addition, the Director will mail a copy of the proposed changes to anyone who requests a copy. If you wish a copy, please call 625-5500 or write to the Department at the address listed below:

The Department has scheduled a public hearing on the proposed rules for 5:30 p.m. to 6:30 p.m., December 30, 1985, in the Department of Licenses and Consumer Affairs Conference Room, 1st floor of the Seattle Municipal Building, Room 102, 600 Fourth Avenue, Seattle, Washington. All interested persons are invited to present data, views, or arguments in regard to the proposed rules orally at the hearing or in writing at or before the hearing. Written comments should be mailed or delivered to the Director of Licenses & Consumer Affairs, Attn.: Dave Heleniak, 102 Seattle Municipal Building, Seattle, Washington 98104.

Date of publication in the Seattle Daily Journal of Commerce, December 13, 1985.
(C-208)

STATE OF WASHINGTON KING COUNTY—SS.

The undersigned, on oath states that he is an authorized representative of The Daily Journal of Commerce, a daily newspaper, which newspaper is a legal newspaper of general circulation and it is now and has been for more than six months prior to the date of publication hereinafter referred to, published in the English language continuously as a daily newspaper in Seattle, King County, Washington, and it is now and during all of said time was printed in an office maintained at the aforesaid place of publication of this newspaper. The Daily Journal of Commerce was on the 12th day of June, 1941, approved as a legal newspaper by the Superior Court of King County.

The notice in the exact form annexed, was published in regular issues of The Daily Journal of Commerce, which was regularly distributed to its subscribers during the below

stated period. The annexed notice, a _____

Notice of Proposed Rule Making _____

was published on December 13, 1985 _____

B. Blair
Subscribed and sworn to before me on
December 13, 1985

Richard D. Jones
Notary Public for the State of Washington,
residing in Seattle.

RULES & REGULATIONS
NEW LICENSE CODE - ORDINANCE 108934
TAXICABS - CHAPTER 6

FILED
CITY OF SEATTLE

1980 FEB -7 AM 8:58

COMPTROLLER AND CITY CLERK

Authority

These rules are made pursuant to Section 1.040 of Ordinance 108934, and Sections 6.212.060 and 6.212.120 of the Seattle Municipal Code and Ordinance No. 108196, as amended, which grants rulemaking authority to the Director of the Department of Licenses and Consumer Affairs.

Rules and regulations promulgated pursuant to Ordinance 59866 and effective on June 1, 1965 and February 28, 1979, and any other rules and regulations promulgated pursuant to Ordinance 59866 and pertaining to taxicabs and/or motor vehicles for hire, and any rules and regulations promulgated pursuant to Section 19.1 of Ordinance 48022, are null and void. Rules and Regulations pursuant to Ordinance No. 108196 as amended, and effective April 30, 1981 are hereby superceded.

R-6.212.010-1 "Taximeter" Charge is Based on

"Based on" means that when a taximeter is used to calculate the fare, the distance traveled is the predominant factor, with any additional charges secondary.

R-6.212.060-1 Safe Condition

A. Annual Inspection and Certification: A taxicab will be deemed to be in Safe Condition as required by this Ordinance upon annual certification by an authorized dealer of the manufacturer or an automobile diagnostic center, that the vehicle has passed the prescribed mechanical safety check, and such certification shall be on forms prescribed by the Director. This check must include an inspection of the structural integrity of the body members, shock absorbers, alignment, brakes, lighting system, exhaust system, steering and suspension system, speedometer and odometer. The certification shall include a statement that all repairs required to be made as a result of the inspection have been completed. The person certifying the vehicle safety will have no financial interest in any taxicab company and cannot be an employee of any taxicab company.

B. Change of Equipment, Coverage, Over Mileage Vehicles: Taxicabs in excess of seven years of age, based upon the model, year, and any other taxicabs with mileage in excess of 100,000 miles, must provide at the time of application for a Taxicab License, or renewal thereof, a Supplemental Application on a form prescribed by the Director certifying that the vehicles have passed the mechanical safety check provided in sub-section "A" above.

Vehicles that are replaced during the license year must present certification on the new vehicles at the time vehicles are replaced and license transfer is requested.

C. Mechanical Safety Check Standards: A taxicab shall be in safe condition for the transportation of passengers when the following conditions have been met. Vehicles may be inspected at any reasonable time by the Director of the Department of Licenses and Consumer Affairs to insure compliance with these conditions.

- (a) An efficient and operable windshield wiper system.
- (b) An adequate braking system, including emergency or auxilliary.
- (c) A complete lighting system, including signaling devices.
- (d) Rear-view mirrors, left outside mirror and inside mirror.
- (e) Glass, free of breaks, cracks or defects sufficient to inhibit vision.
- (f) Tires, minimum State required tread depth, 2/32 inch.
- (g) Exhaust system integrity.
- (h) Spare tire and jack in operable condition.
- (i) Structural integrity of body members.
- (j) Brake and clutch foot pads, no exposed metal parts.
- (k) Speedometer and Odometer in working order.
- (l) A safe steering and suspension system.
- (m) Seat belts readily available for use of passengers.
- (n) No exposed seat springs or other broken parts that may injure a passenger.
- (o) Door handles must be in place and operable as originally installed by the factory.

R-6.21.060-2 Sanitary Conditions

A taxicab shall be maintained in a sanitary condition at all times the vehicle is operating as a taxicab. Vehicles may be inspected at any reasonable time by the Director of the Department of Licenses and Consumer Affairs to insure compliance with these conditions:

A. No visible dirt or stains that would be transferrable to passengers' clothing.

B. No litter or extraneous debris.

C. No eating by the driver while driving or within the taxi while at a taxicab stand.

D. No torn or ripped upholstery or floor mats.

R-6.212.060-3 Safety Check Required, When?

Vehicles that have mechanical, structural or safety defects at the time of any inspection by the Department of Licenses and Consumer Affairs may be required to submit to a safety check as set forth in Section 6.212.060.1.(A) of these rules.

R-6.212.060-4 Taximeters, Seal of Approval

As a certification of approval, the taximeter shall have affixed thereto, a lead-wire security seal(s) bearing the City of Seattle approval impression. If such security seal(s) is defaced, broken or removed for any purpose, it is unlawful to operate the taximeter until reinspected and approved by the Director of the Department of Licenses and Consumer Affairs.

R-6.212.100-1 Rates, Forms

Rates shall be filed pursuant to the form provided by the Director of Licenses and Consumer Affairs.

R-6.212.100-2 Affiliation Representative

The affiliation representative authorized to file rates for a group of affiliated taxicabs shall mean the President of the service company, as registered with the Secretary of State in Olympia, or a representative who presents similar proof acceptable to the Director of Licenses and Consumer Affairs that he/she is legally authorized to represent a group of affiliated taxicabs.

R-6.212.120-2 Exterior Rate Posting Standards

1. Vehicles Rates: A permanently affixed sign indicating the metered and filed rate of fare shall be posted on both sides of the taxicab and be readable from the side of the vehicle. The sign shall be located on the upper half of the body, below the window line affixed to the rear door; or at such other location as specified and approved by the Director of Licenses and Consumer Affairs.

The lettering shall be no smaller than 3/4 inch except for 1/2 inch minimum for "cents" rate, be on a contrasting color background and identify the rate(s) by:

- (a) Drop Charge
- (b) Mileage Charge
- (c) Waiting time per minute
- (d) Extra Passenger Charge (when applied)
- (e) Indications of discounts and surcharges if any

Discount fares must be shown as a percentage of the rate per mile charge.

The format and content of the exterior rate posting will be the same as required for the rate card by Section 6.212.120.6 herein.

Upon approval of the Director, additional information may be posted for the purpose of clarification of the rate.

2. **Vehicle Identification:** The company trade name as filed in the application shall be permanently affixed to both sides of the vehicle. Letters shall be a minimum of 2-1/2 inches in height and two inches in width.

3. The company vehicle number shall be permanently affixed to and readable from the front, rear and sides of the vehicle. Numbers will be on the hood, trunk, and on the rear roof posts, on both sides of the vehicle. Numbers shall be a minimum of 2-1/2 inches in height and two inches in width. Any vehicle that cannot physically meet this criteria will post the number(s) in the manner prescribed by the Director at the time of inspection.

R-6.212.120-3 Taxicab Identification Standards, Interior

Each taxicab shall have a permanently affixed sign, placard, or card, of plastic or metal, on the interior of the vehicle above or immediately adjacent to the taximeter and readable from the rear seat. The letters and numerals shall be on a contrasting background and no smaller than 3/4 inch in height. The sign shall contain the company trade name, company vehicle number, and current company telephone number. Also, the driver's name shall be included unless the driver's validated For-Hire License is worn by the driver and visible to the public.

R-6.212.120-4 Posted Fares to Agree with Meter Computation and Display

Each taxicab shall post the rate of fare that is in effect and on file with the Director of Licenses and Consumer Affairs. The taximeter shall indicate the fare being computed.

R-6.212.120-5 Extra Passengers

The Ordinance allows for charges for extra passengers if more than two persons are in the taxicab. Where there is a charge for additional passengers, the taximeter shall be required to accurately indicate and register "extras." If no charge is made for additional passengers, the mechanism must be rendered inoperable and the "extras" indication must be obscured by a means approved by the Director of Licenses and Consumer Affairs.

R-6.212.120-6 Rate Card

Rates shall be posted on a standardized rate card as prescribed by the Director of Licenses and Consumer Affairs. The rate card shall be

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of bold face type on a contrasting background. Such rate card shall be positioned as prescribed by the Director of Licenses and Consumer Affairs, and shall be conspicuous and in full view of passengers riding in the back seat. It shall list the metered rate of fare in the following order:

1. Drop Charge
2. Mileage Charge
3. Waiting time per minute
4. Extra Passenger Charge (when applied)
5. Indications of discounts and surcharges if any

Rate cards on the rear of the front seat shall use a minimum of 1/2 inch size for all key letters and numerals (see sample card attached). Rate cards on the rear side window shall use a minimum of 1/8 inch size for all key letters and numerals (see sample card attached).

R-6.212.150-1 Notice to Passengers

"Notice to Passengers" shall be printed as prescribed by the Director of Licenses and Consumer Affairs. Print type and size shall be 10/12 Point Futura Demi Bold. This notice must be posted contiguous to the rate card required in Section 6.212.120-6 (see sample attached).

R-6.212.080-1 Financial Responsibility

As evidence of proper insurance coverage as required by SMC 6.212.080 and as provided in RCW 46.72 as now or hereinafter amended, the licensee must provide a valid State For-Hire Certificate and a Certificate of Insurance that indicates the insurance required pursuant to RCW 46.72 is in force and that particularly the underinsured motorist coverage is in force and that the insurance company will notify this Department within ten (10) days of the lapse of any coverage.

Failure to maintain the required insurance coverage will result in a summary revocation of the taxicab license as provided in SMC 6.202.240. In order to obtain reinstatement of the license, the licensee must provide this Department with a certificate from the insurance carrier indicating that the required coverages have been reinstated and are currently in force and the effective date of reinstatement.

Evidence of proper insurance will be a Washington State For-Hire Certificate and a Certificate of Insurance which shows that the Licensee and the insured are one and the same. The Certificate of Insurance shall be transmitted to the Department of Licenses and Consumer Affairs, City of Seattle, 600 - 4th Avenue, Room 102, Seattle, Washington 98104 and must provide the following information:

- vehicle owner;
- taxicab trade name and number;
- vehicle identification number (VIN);
- all coverages as required by Seattle Municipal Code and the State of Washington; and
- minimum of a ten (10) day cancellation clause.

PUBLIC NOTICE

FILED
CITY OF SEATTLE

The Seattle Municipal Code (SMC 6.294.150.A.1) authorizes the Director to make rules regarding the Dance Hall Ordinance (SMC 6.294). A public hearing will be held on Tuesday, September 17 at 10:30 a.m. in the Department of Licenses and Consumer Affairs' Conference Room, Room 102, 600 - 4th Avenue, Seattle, Washington 98104, to hear comments on the following rules.

Rule 6.294.040.A "Readily accessible to the public" -

means that there are no special restrictions to entry other than the admission fee. A private club membership that is available to the general public is not by itself considered a special restriction. If a business is having a dance for its employees and their families, and admittance is limited to company employees and their families, this would qualify as not readily accessible to the public. However, if friends of the families can attend, the dance would then become a public event and be licensable.

Rule 6.294.050.B.1 Permitted Occupancy -

The determination on the size of the hall will be established by the Occupancy Permit obtained from the Fire Department.

Rule 6.294.050.B.2 Accredited Educational Institution -

Elementary, junior high and high schools recognized by the State of Washington are considered as accredited schools. Private dance schools are not exempted from this ordinance.

Rule 6.294.050.B.3 Non-profit Tax Exempt Organization -

A public dance operated by an organization, who has filed for non-profit status with the State of Washington and has a Federal IRS status of 501 C-3 or equivalent does not require a license. The annual dinner dance for the Seattle Symphony would not require a dance hall license.

Rule 6.294.050.B.4 Exemption Criteria for the Parks and Seattle Center -

A request to exempt a dance at one of these facilities will require written evidence that adequate security and insurance provisions have been provided to assure the attendees at the dance that proper precautions have been taken, regarding their safety. The Director may deem upon proof that a problem exists, that security is not adequate and require additional protection as necessary.

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Public Notice Continued

Rule 6.294.055 License Application -

shall be on a form approved by the Director and require dates of birth for all officers and managers or supervisors of the business in order to identify police records checks. Also, residence addresses of all officers is required.

Rule 6.294.055.A.4 Oath -

The oath may be witnessed by the Director or assigned deputy or by a notary public in the State of Washington.

Rule 6.294.055.C Statement of Crowd Protection and Traffic Control -

A statement identifying:

1. How the operator will identify when occupancy/capacity limits have been met and by what means will entry be restricted;
2. Emergency evacuation plans will be used, identifying who will be responsible for the clearing of the hall in case of an emergency;
3. What procedure is used to summon Police or Fire to an emergency or altercation;
4. Identify ticket line procedures indicating the location of lines and that the sidewalk is not blocked; and
5. Identify the means to control or evict persons who pose a threat or hazard to others on the premises.

Rule 6.294.055.E Statement of Compliance with City Codes -

Valid Health, Fire, and Building Permits must be provided which indicate compliance with City codes and acknowledging the facility as a public dance hall. Upon application, we will route the application to the affected departments, for verification of approval.

Rule 6.294.080 Age Restrictions -

The procedure as to how the age restriction controls will be enforced must be provided.

1. What will the carding procedure be?
2. How will the club restrict 18 year olds after 2:00 a.m.?

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Your
Seattle
Department of Licenses and Consumer Affairs

Regina L. Glenn, Director
Charles Royer, Mayor



June 29, 1984

M E M O R A N D U M

TO: The Honorable Tim Hill
Seattle City Clerk

FROM: *Regina L. Glenn*
Regina L. Glenn, Director
Department of Licenses & Consumer Affairs

SUBJECT: FILING OF REVISED RULES AND REGULATIONS TO
IMPLEMENT SMC, CHAPTER 5.44

Attached is a true and exact copy of the revised Rules and Regulations implementing the Seattle Municipal Code, Chapter 5.44 (Business and Occupation Tax) to be filed with your office. These rules are effective July 1, 1984.

Public hearings were held on June 21 and June 22, 1984.

RLG:dhv

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40629.M2

COMPTROLLER AND CITY CLERK
JUN 29 PM 3:33
CITY OF SEATTLE
FILED

An equal employment opportunity - affirmative action employer

City of Seattle—Department of Licenses and Consumer Affairs, 102 Seattle Municipal Building, Seattle Washington 98104 (206) 625-2536/625-5500

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RULES IMPLEMENTING THE
SEATTLE BUSINESS TAX ORDINANCE

Pursuant to ~~ORDINANCE 72630, §23, and the Seattle Administrative Code (Ordinance 102220)~~, the Seattle Municipal Code (SMC), § 5.44.240, the Director of Licenses and Consumer Affairs, acting for and on behalf of The City of Seattle, hereby adopts the following Business Tax Rules to implement ~~Ordinance 72630, as amended~~, the SMC, Chapter 5.44, and to assist the taxpayer in filing returns and in determining the amount of tax due. Rule 1 adopts designated sections of the rules and regulations of the State of Washington, Department of Revenue (Washington Administrative Code, Chapter 458-20) with the objective of providing as much similarity in the assessment and payment of the City Business Tax and the State Business and Occupation tax imposed by RCW Chapter 81 as practical while recognizing the differences between the two taxing jurisdictions and their legislation. Rules 2 through 6 address engaging in business within the City, issues pertaining to interstate and foreign commerce, and apportionment of gross income where the taxpayer maintains a place of business within the City and also elsewhere. With every rule the singular number includes the plural. In the event of a conflict between a rule and ~~Ordinance 72630, SMC, Chapter 5.44~~, the ~~ordinance Code~~ prevails.

Rule 1. State Rules Adopted. The portion of each of the following Excise Tax Rules of the State of Washington, Department of Revenue, which implements the State Business and Occupation Tax imposed by RCW Chapter 82.04, as published in Washington Administrative Code, Chapter 458-20, is hereby adopted, as now or hereafter amended, as a rule implementing the Seattle Business Tax imposed by ~~Ordinance 72630, as amended~~, SMC, Chapter 5.44, subject to the substitution of any term listed below for the word or phrase indicated in the text of the State rule and the making of any particular change noted following the number of the rule adopted. Unless otherwise noted, the portion of a rule adopted appears as an introductory paragraph in the Department of Revenue rule and as the paragraph following the caption "Business and Occupation Tax"; it excludes paragraphs under the caption "Retail Sales Tax", "Conveyance Tax", "Public Utility Tax" or "Use Tax". A notation of "entire rule" beside the rule's number means the complete text is adopted.

(a) Substitution of Terms for Seattle Business Tax Purposes—

- (1) "Department of Revenue" shall be "Department of Licenses and Consumer Affairs"
- ~~(2) "Law" shall be "ordinance or state law";~~
- ~~(3) (2) "Retailing" shall be "retailing or wholesaling". Since Ordinance 72630, § 3(e) SMC, § 5.44.030 (C) taxes both within one classification, no distinction need be made under WAC-458-20-129, 137 or 140;~~
- ~~(4) (3) "Revenue Act of 1935" shall be Ordinance 72630, as amended SMC, Chapter 5.44 (e.g. Rule 169 WAC 458-20-169); and~~
- ~~(5) (4) "Wholesaling" shall be "retailing or wholesaling". Since Ordinance 72630, § 3(e) SMC, § 5.44.030 (c) taxes both within one classification, no distinction need be made under Rules 129, 137 or 140; WAC-458-20-129, 137 or 140;~~

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(b) Rules Adopted

- WAC-458-20-105 Substitute "Business License" for "Certificate of Registration and collect and remit the retail sales tax" under the Subsection entitled "Persons Engaging in Business" second paragraph.
- WAC-458-20-106 Entire Rule
- WAC-458-20-107 Entire Rule
- WAC-458-20-108 Entire Rule
- WAC-458-20-109 Substitute "may not" for "may" in the fourth paragraph, first sentence. Delete last sentence from the fourth paragraph.
- WAC-458-20-110 Entire Rule
- WAC-458-20-111 Entire Rule
- WAC-458-20-112 Entire Rule
- WAC-458-20-114 Under Subsection "Bona Fide Initiation Fees and Dues", third paragraph, delete second and third sentence. Under Subsection "Definitions", eighth paragraph, second sentence, delete the words "and/or sales". Under Subsection "Tax Classifications", fifth and seventh sentence, delete the word "excise". Delete the sixth sentence. Under Subsection "Tuition Fees", delete the last sentence of the last paragraph.
- WAC-458-20-118 Entire Rule
- WAC-458-20-119 Entire Rule
- WAC-458-20-122 Amend "Business and Occupation Tax" Section, first paragraph, second sentence list of commodities to read "wheat, oats, ~~dry peas~~, corn, barley or rye." (Material stricken is deleted from the State Rule and material underlined is added.)
- WAC-458-20-123 Delete paragraphs two, three, and four, five and six.
- WAC-458-20-124 Delete from "Gratuities" Subsection, second sentence, the words "both" and "and the retail sales tax". Add "Business and Occupation Tax" section to read as follows: Taxable under the Retailing or Wholesaling classification upon the gross proceeds of sales.
- WAC-458-20-128 Entire Rule
- WAC-458-20-129 Substitute "gross sales of" for "the amount of State and Federal gallonage tax on" in the last sentence of the "Retailing" Subsection.
- WAC-458-20-130 Delete "-Retail Sales Tax" from the "Business and Occupation Tax" Section title. Delete from the first paragraph, first sentence the words "or the retail sales tax". Delete from the second paragraph the words "or the retail sales tax". Delete from the third paragraph the words "or the retail sales tax".
- WAC-458-20-132 Entire Rule
- WAC-458-20-133 Entire Rule
- WAC-458-20-134 Entire Rule
- WAC-458-20-135 Delete reference to "(See also WAC 458-20-193.)" under Subsection entitled "Extracting - Interstate or Foreign Sales". Under Subsection entitled "Extracting for Others" substitute "Service" for "Extracting For Hire" and "Motor Transportation" and delete the words "of the public utility tax" and reference to "(See WAC 458-20-180.)" Delete Section "Forest Excise Tax".

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WAC-458-20-136 Delete reference to "(See also WAC 458-20-193.)" under Subsection entitled Manufacturing - Interstate or Foreign Sales". Delete Subsection entitled "Manufacturing Special Classifications". Substitute "Service" "Manufacturing" for "Processing for Hire" under the Subsection entitled "Processing For Hire".

WAC-458-20-137

WAC-458-20-138

WAC-458-20-139

WAC-458-20-140

Delete reference to "(See WAC 458-20-102.)"
Substitute "Manufacturing" for "Processing for Hire"
under the Subsection entitled "Processing For Hire."

WAC-458-20-141

~~Delete "Note" and its sentence.~~ Delete from "Business and Occupation Tax" Section, second paragraph, last sentence and fifth paragraph, last sentence.

WAC-458-20-143

WAC-458-20-144

Delete "Note" and its sentence. Add second paragraph under the Section "Business and Occupation Tax" to read as follows: "Where stamped envelopes or government postals are purchased and printed for customers or where stamps are provided, the amount of the postage may be deducted from the total charge to the customer in determining the selling price for business tax." Add Subsection: "Commissions and Discounts" from the "Retail Sales Tax" Section.

WAC-458-20-146

Amend the second sentence to read as follows:
"Accordingly, the gross income or gross sales of such institutions shall become subject to the business and occupation tax according to the following general principles and Chapter 458-20 20 WAC adopted by the Department of Revenue pursuant to RCW 82.14A.020".
(Emphasis shows addition) Amend third paragraph, second sentence of Subsection "Service and Other Activities" to read as follows: "Deductible gross income should be included in the gross amount, then deducted and explained on the form." Add Subsection: "Branch locations, Division of Income " as follows: "Financial institutions having more than one place of business shall divide total taxable gross income so as to attribute taxable income to each location in the ratio of total interest earned (whether taxable or not) on loans originated at each location during the period covered by the tax return. The location at which a loan is originated is the place of business of the financial institution at which the customer deals with the financial institution to obtain the loan. Financial institutions having time or demand deposits may compute the ratio of total deposits at each location, provided the financial institution can demonstrate that the taxable income so computed will not differ by more than \$10,000 in any one calendar year as to any one business location." Delete under "Retailing" Subsection, first paragraph, the second and third sentences. Second paragraph, first sentence, delete "and to the retail sales tax". Also, delete second sentence of "Note". Delete "Resale Certificates" Subsection.

WAC-458-20-147
WAC-458-20-148
WAC-458-20-149
WAC-458-20-150
WAC-458-20-151
WAC-458-20-152
WAC-458-20-153

Delete the words "~~as outlined above~~" "subject to the retail tax as outlined below" from Subsection "Retailing", first paragraph, first sentence. Add "Deduction" Subsection, as follows: ~~"A deduction from the business and occupation tax is allowed to that portion of amounts received by any funeral home licensed to do business in this state which is received as reimbursements for expenditures (for goods supplied or services rendered by a person not employed by or affiliated or associated with the funeral home) as an accommodation to the persons paying for a funeral, so long as such expenditures and advances are billed to the persons paying for the funeral at only the cost thereof and are separately itemized in the billing statement delivered to such persons."~~

WAC-458-20-154 Delete under the "Retailing" Subsection the words "taxable under the retail sales tax" and the word "also".
Entire Rule

WAC-458-20-155
WAC-458-20-157
WAC-458-20-158
WAC-458-20-161

With the list of commodities amended to read "wheat, oats, ((dry peas)) corn, barley ~~((dry beans, lentils))~~ ~~((triticale))~~ and rye." (Material stricken is deleted from the State Rule and material underlined is added.)

WAC-458-20-162
WAC-458-20-164

Entire Rule
Delete reference to "agent" and the Subsection entitled "Special Classification of Certain Managing General Agents."

WAC-458-20-165 Delete under the Subsection "Retailing" the words "which are subject to the retail sales tax as hereinafter provided."

WAC-458-20-166 Delete from the fifth paragraph the words "to the retail sales tax and". Delete paragraph seven. Delete last sentence of Subsection "Retailing".

WAC-458-20-167 Delete under "Business and Occupation Tax" Section, third paragraph, last sentence.

WAC-458-20-168 Paragraph one, second sentence, delete the words "other than prescription drugs". Delete from the second paragraph, Subsection 1. and 2., the words "as defined by RCW 82.08.0281". Paragraph four, second sentence, change "religious or charitable organizations" to "a religious organization".

WAC-458-20-169 Delete reference to "collect the retail sales tax upon such sales, nor" from the second paragraph, first sentence. Second sentence, delete "collect the retail sales tax, nor". Amend the third paragraph to read as follows: "In every case where such organizations conduct business activities other than as outlined above, the business and occupation tax is fully applicable to the gross sales made."

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- WAC-458-20-170 Under Subsection "Speculative Builders", second paragraph, delete last sentence. Third paragraph, last sentence, delete "and shall also collect sales tax from the buyer on such allocable part of the sales price." Delete fourth paragraph.
- WAC-458-20-171 "Business and Occupation Tax" Section, delete from first sentence the words "under the Public Road Construction classification."
- WAC-458-20-172 Add a Subsection "Repairs for Out-of-State Persons" as follows: "Persons residing outside this State may ship into this State articles of tangible personal property for the purpose of having the same repaired, cleaned or otherwise altered, thereafter returned to them. No deduction is allowed as an interstate sale under the business and occupation tax."
- WAC-458-20-173
- WAC-458-20-174 Delete "Public Utility Tax" from the "Business and Occupation Tax" Section. Delete reference to "WAC 458-20-179" and "WAC 458-20-193."
- WAC-458-20-175
- WAC-458-20-176 Delete reference to WAC 458-20-193.
- WAC-458-20-177 Delete last paragraph of "Business and Occupation Tax" Section.
- WAC-458-20-181 Delete under the "Retailing" Subsection the words "taxable under the retail sales tax".
- WAC-458-20-182 Delete first paragraph of the "Business and Occupation Tax" Section. Amend second paragraph to read as follows: "Persons engaged in the business of operating any type of warehouse and the renting of cold storage lockers are taxable under the Service and Other Activities classification upon the gross income received from such business."
- WAC-458-20-183
- WAC-458-20-187 Delete from paragraph two under "Amusement Devices" Subsection the words "and are responsible for collecting and reporting to the Department the retail sales tax measured by the gross receipts therefrom." Adopt only the first and second paragraph of the Subsection "Service Machines" and the following portion of the last paragraph "Sales of vending machines, service machines and amusement devices to persons who will operate the same are sales at retail."
- WAC-458-20-18801 Delete from the first paragraph, Subsection a., the words "RCW 82.04.4289 (See" and delete the parenthese ")" after WAC 458-20-168.
- WAC-458-20-189 Delete from the present title the words "And By". With the exception of the first paragraph of the "Business and Occupation Tax" Section, all others are deleted.
- WAC-458-20-190
- WAC-458-20-191
- WAC-458-20-195 Delete the words "the retail sales tax and the public utility tax" from the first sentence under Subsection "A. Deductibility, General": Generally".

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WAC-458-20-196
WAC-458-20-197 Delete second and third sentence of first paragraph.
WAC-458-20-198
WAC-458-20-199 Delete from first paragraph, first sentence the words "and the retail sales tax.". Delete second sentence, from first paragraph. Under Subsection "METHOD TWO, ACCRUAL BASIS" delete the words "and the retail sales tax". Under Subsection METHOD THREE, CASH RECEIPTS, ACCOUNTS RECEIVABLE ADJUSTMENTS" amend second paragraph, fifth sentence to read as follows: "Such receipts should be included (Gross Amount) and then listed as a deduction on the tax return and explained on the return as "cash received upon accounts receivable reported as of December 31, 19—". Delete third paragraph.

WAC-458-20-202 Entire Rule
WAC-458-20-203 Entire Rule
WAC-458-20-204
WAC-458-20-205 Entire Rule
WAC-458-20-207 Entire Rule
WAC-458-20-208 Entire Rule
WAC-458-20-210 Delete second paragraph under the heading. Under Section "Business and Occupation Tax", first sentence, add the words "or retailing" after the word wholesaling and delete the word "wholesale". Delete second paragraph.

WAC-458-20-211 Delete last sentence from first paragraph. Under Section ~~"Business and Occupation Tax"~~, first paragraph, delete from the first sentence the words "or Wholesaling" and from the second sentence the words "or Retailing". Delete from the second paragraph the words "(or public utility tax)". Change last sentence to read as follows: "Thus, the charge made to a construction contractor for equipment with operator used in the construction of a building would be taxable under wholesaling."

WAC-458-20-212 Entire Rule
WAC-458-20-213 Second paragraph, change "Certificate of Registration" to "Business license" and "Certificate" to "license".
WAC-458-20-214 Delete from first paragraph, first sentence, the words "and the retail sales tax". Add at end of paragraph, under the Subsection "Cold Storage Warehousing" the words "(See WAC 458-20-182.)"

WAC-458-20-216 First paragraph, change "ten" to "fifteen". Delete remainder of paragraph after the first sentence. Amend second paragraph to read as follows: "A successor shall not be liable for any tax due from the person from whom he has acquired a business or stock of goods."

WAC-458-20-218 Under the Section "Business and Occupation Tax", third paragraph, delete the following: "(General principles covering sales or services to persons in other States are contained in WAC 458-20-193.)"

WAC-458-20-219 Add ~~Substitute~~ the word "the" for ~~"either"~~ after the word "under". Delete the words "public utility tax, or retail sales tax."

WAC-458-20-220
WAC-458-20-222
WAC-458-20-223

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WAC-458-20-224

Delete from the second paragraph the words "who are not subject to public utility tax." Also in the second paragraph, after the word insurance delete the words "agents and". Delete second paragraph under the "Business and Occupation Tax" Section.

WAC-458-20-225

WAC-458-20-226

WAC-458-20-228

Delete from the title the words "INVENTORY TAX CREDIT APPLICATIONS, STAY OF COLLECTION". (Material stricken from the title is stricken from the Rule.)

Delete first paragraph. Delete from second paragraph, first sentence the words "chapter 82.08 RCW (retail sales tax), chapter 82.12 RCW (use tax), chapter 82.14 RCW (local sales and use tax), chapter 82.16 RCW (public utility tax), and chapter 82.26 RCW (tobacco products tax)". Also, delete the words "of revenue" from the first sentence. Delete from second sentence the word "monthly". Delete from third sentence the words "of revenue" and "approximately ten days prior to the due date of the tax". Delete fourth paragraph. Delete fifth paragraph. Delete sixth paragraph first sentence. Amend second sentence to read as follows: "If payment of any tax due is not received by the department by the fifteenth day of the month in which the tax becomes due, there shall be assessed a penalty of five percent of the amount of the tax with a minimum penalty of Five Dollars (\$5.00); and if the tax is not received by the last day of the month in which the due date falls, there shall be assessed a total penalty of ten percent of the amount of the tax with a minimum penalty of Fifteen Dollars (\$15.00); and if the tax is not received by the last day of the month next succeeding the month in which the due date falls, there shall be assessed a total penalty of twenty percent of the amount of the tax with a minimum penalty of Twenty-Five Dollars (\$25.00)". Eighth paragraph, first sentence change "two" to "five". Amend second sentence to read as follows: "The aggregate of penalties for failure to file a return, or late payment of any tax, may not exceed twenty percent of the tax due, or twenty-five dollars, whichever is greater. Paragraph eleven, item 6 change "Olympia or district office" to department". Delete thirteenth paragraph. Under Subsection "Extensions", first paragraph, delete second and third sentence. Delete second paragraph.

WAC-458-20-235

Delete first sentence of the first paragraph. Amend the first sentence of the fourth paragraph to read as follows: "The business and occupation tax due on conditional and installment sales must be wholly reported during the period in which the sale is made (See WAC-458-20-198)." Delete the second sentence. Delete the first sentence of the fifth paragraph. In the second sentence, delete the words "collect the retail sales tax and". Delete from sixth paragraph the words "collect retail sales tax and".

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WAC-458-20-236 Entire Rule.
WAC-458-20-241 Delete last paragraph under Subsection "Method of Allocation" and delete the "Retail Sales Tax" and "Use Tax" Subsections.
WAC-458-20-245 Delete from the first paragraph, first sentence, the words "retail sales". Delete from the second paragraph the last sentence. Under the Subsection "RETAILING AND WHOLESALING", fifth paragraph, first sentence, delete the words "combined excise" and the words "column 2 of". Under the second sentence delete the number "3" and the word "excise". Also, in the second sentence add the words "the deductions" after the word "under". Amend the third sentence to read as follows: "It should be explained that such adjustment was the result of income received from the interstate or intrastate division of revenue pool. Delete the last sentence of the fifth paragraph.

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Rule 2. "Engaging in Business" Illustrated.

The Seattle Business Tax Ordinance imposes an excise tax upon the privilege of "engaging in business activities" within Seattle measured by the gross revenues of such activities. The amount of tax is determined by multiplying the gross revenues considered in measuring the tax by the applicable rate unless the minimum tax applies.

The term "engaging in business" includes any business, professional or commercial activity which is carried on within the City. It includes a business of an interstate character having a location within the City.

A person, including a non-resident and/or a foreign corporation, who performs any of the following acts, "engages in business activity" within the City:

- A. Maintains within this City an office or other place of business or a local agent used in:
 - 1. Extracting or manufacturing activities;
 - 2. Rendering personal services or general services on other business activities;
 - 3. Selling or delivering tangible personal property within the City or State or in assisting a sale or transfer of tangible personal property such as: solicitation, negotiation, offer, acceptance, credit investigation, credit approval, transportation of the goods, delivery or performance of the service, passage of title or receipt of purchase price; or
 - 4. The performance of construction or installation contract.
- B. Maintains within this City a stock of goods at either a public warehouse or in a private storage place from which deliveries are made and/or
- C. Undertakes any activity in connection with the performance of construction contracts or leasing of tangible personal property within this City.

These examples illustrate the concept of "engaging in business", and are not an all-inclusive listing.

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Rule 3. Measuring the Amount of Tax. Unless an exemption, deduction or exclusion under Ordinance 72630, Sections 6 through 10, SMC, § 5.44.070 through § 5.44.110, inclusive, applies, the gross proceeds of a sale of tangible personal property are included in measuring the gross proceeds of sales of a taxpayer engaging in the business of wholesaling or retailing from an office or place of business within the City whenever:

- (a) The personal property is located in or brought into the City;
- (b) The taxpayer's office or place of business within the City performs services essential to the sale; or
- (c) the taxpayer's office or place of business renders services that are decisive factors in establishing or holding the market for the goods sold.

Department of Revenue WAC-458-20-193, Rule 193, Parts A & B (~~WAC 458-20-193, A & B~~), will be used as a guide in administering this rule.

Unless an exemption, deduction or exclusion under Ordinance 72630, Sections 6 through 10, SMC, § 5.44.076 through § 5.44.110, inclusive, applies, the gross income received from performing a service is included in measuring the amount of tax due from a taxpayer engaged in rendering services from an office or place of business within the City whenever:

- (a) the service is performed in whole or in part within the City;
- (b) the taxpayer's office or place of business within the City participates in effecting the transaction; or
- (c) the taxpayer's office or place of business performs activities that are decisive factors in establishing or holding the clientele or customers for the service.

Rule 4. Interstate and Foreign Commerce Deductions. Department of Revenue Rule 193, WAC-458-20-193, Parts C & D (~~WAC 458-20-193, C & D~~) will serve as a guide for determining whether a deduction may be allowed for the proceeds of a particular transaction as constituting interstate or foreign commerce.

Rule 5. Apportionment. The Business Tax due from a taxpayer, who maintains an office or place of business within the City and not elsewhere, is measured by the gross value of the products, gross proceeds of sale or gross income of the business, without apportionment, irrespective of whether all or a major portion of the taxpayer's activities with regard to a particular transaction or series of transactions occurs outside the City, unless the interstate or foreign commerce deduction (see Rule 4), another deduction, or an exemption applies. For examples of the application of an analogous rule, see Department of Revenue Rule 194 (~~WAC 458-20-194~~).

A taxpayer who maintains an office, plant, warehouse, or other place of business within the City and also elsewhere, shall apportion to the taxpayer's business activity within the City that portions of the gross value of products, gross proceeds of sales, or gross income of the business, as the case may be, as shall be ascertained in accordance with ~~Ordinance 72630, Section 6, as amended.~~ SMC, § 5.44.070 through § 5.44.078.

When an interstate taxpayer's only office or place of business within the State is located in the City, the apportionment formula adopted by the Department of Revenue for allocating business of the taxpayer to the State of Washington will apply so that the same gross figures may be used. For examples of apportionment, see *Lone Star Cement Corp. v. The City of Seattle*, 71 Wn.2d 564, 429 P.2d 909 (1967) and *Greyhound Lines v. Tacoma*, 81, Wn.2d 525, 503 P.2d 117 (1972).

Rule 6. Interpretations. ~~Ordinance 72630, as amended, SMC, Chapter 5.44,~~ and these rules will be interpreted and applied with the objective of providing as much similarity in the assessment and payment of the City Business Tax and the State Business and Occupation Tax imposed by RCW Chapter 82.04 as practical while recognizing the differences between the two taxing jurisdictions and their legislation.

~~Rule 7. HOTELS, MOTELS, BOARDING HOUSES, ROOMING HOUSES, RESORTS, SUMMER CAMPS, TRAILER CAMPS, ETC.~~

~~A hotel, motel, boarding house, rooming house, apartment hotel, resort lodge, auto or tourist camp, and bunkhouse, as used in this ruling, includes all establishments which are held out to the public as an inn, hotel, public lodging house, or place where sleeping accommodations may be obtained, whether with or without meals or facilities for preparing the same. The foregoing does not include establishments in the business of renting real estate, such as apartments, nor does it include hospitals, sanitarium, nursing homes, rest homes, and similar institutions. Further, the foregoing does not include private lodging houses, dormitories, bunkhouses, etc., operated by or on behalf of business and industrial firms solely for the accommodation of employees of such firms, and which are not held out to the public as a place where sleeping accommodations may be obtained. The terms do not include guest ranches or summer camps which, in addition to supplying meals and lodging, offer special recreation facilities and instruction in sports, boating, riding outdoor living, etc. It does not include a hostel, as defined in Chapter 201, Laws of 1977, 1st Ex. Sess., Section 2, RCW 49.51.365, and established by a governmental agency or operated in accordance with rules and regulations of the Parks and Recreation Commission of the State of Washington, nor does it include a lodging facility operated by a non-profit charitable, religious or educational organization which is recognized by the United States Internal Revenue Service as exempt from payment of federal income taxes under 26 USC § 501(c)(3).~~

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~~A boarding house, as used in this ruling, is an establishment selling meals on the average to five or more persons, exclusive of members of the immediate family. Where meals are furnished to less than five persons, exclusive of members of the immediate family, the establishment will not be considered as engaging in the business of operating a boarding house.~~

~~A trailer camp, as used in this ruling, is an establishment making a charge for the rental of space to transients for locating or parking house trailers, campers, mobile homes, tents and the like which provide sleeping or living accommodations for the occupants. Additional charges for utility services will be deemed part of the charge for the rental.~~

~~It will be presumed that the above establishments are conferring a license to use real estate, as distinguished from a rental of real estate, where the occupant is a transient. Conversely, where the occupant who receives lodging is or has become a nontransient, it will be conclusively presumed that the occupancy is under a rental or lease of real property.~~

~~Where lodging is furnished a transient, as that term is hereinafter defined, the charge therefore is subject to the business and occupation tax under the lodging classification. Where the lodging is furnished a nontransient, the transaction is deemed a rental of real estate and is exempt from tax.~~

~~Rule 7. (Continued)~~

~~The terms "transient" as used in this rule, means: Any guest, resident, or other occupant to whom lodging and other services are furnished under a license to use real property and who does not continuously occupy the premises for a period of one month. Where such occupant remains in continuous occupancy for more than one month, he shall be deemed a transient as to his first month of occupancy, unless he has contracted in advance to remain one month. In cases where such person has so contracted in advance and does so remain in continuous occupancy for one month, he will be deemed a nontransient from the start of his occupancy.~~

~~The tax liability of hotels, motels, boarding houses, rooming houses, resorts, summer camps, trailer camps, etc., is as follows:~~

~~BUSINESS AND OCCUPATION TAX~~

~~LODGING. Amounts derived from the charge made to transients for the furnishing of lodging, room service charges and other related charges are taxable under this classification.~~

~~RETAILING. Charges for such services as the rental of radio and television sets and the rental of room, space and facilities not for lodging, such as ballroom, display rooms, meeting rooms, etc., and including automobile parking or storage, also amounts derived from the sale of tangible personal property at retail are taxable under this classification.~~

Rule 7. (Continued)

~~SERVICE AND OTHER BUSINESS ACTIVITIES. Taxable under this classification are amounts derived from the rental of sleeping accommodations by private lodging houses, and by dormitories, bunkhouses, etc., operated by or on behalf of business and industrial firms and which are not held out to the public as a place where sleeping accommodations may be obtained; commissions received from acting as a laundry agent for guests (see Rule 165) and commissions received for the use of telephone facilities. Summer camps, guest ranches and similar establishments making an unsegregated charge for meals, lodging, instruction and the use of recreational facilities must report the gross income from such charges under this classification. This classification is also applicable to gross income from charges for the use of coin-operated laundry facilities when such facilities are situated in an apartment house, hotel, motel, rooming house or trailer camp for the exclusive use of the tenants. (See Rule 165 for information regarding the tax liability of laundry services generally.)~~

~~Rules and Regulations, Numbers 1 to 6, inclusive, were adopted April 15, 1980 to implement the Business Tax Ordinance No 72630. Rule 1 was amended, as printed above, and a new Rule 7 added March 23, 1981, effective as of January 1, 1981. All Rules and Regulations issued prior thereto were rescinded.~~

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Rule 7. Disclosure of Taxpayer Information

This rule governs the inspection, copying, and disclosure of information from tax returns. It is intended to implement SMC §§ 5.44.200 and 5.44.205, protect a taxpayer's right of privacy in information supplied to the department, allow disclosure consistent with the State Public Disclosure Act, RCW 42.17.260-.340, and authorize use of statistical data.

Confidentiality of records: No tax returns or information identifying individual taxpayers shall be released, in any form, without the taxpayer's authorization, except as authorized in SMC § 5.44.200 and this rule and applicable State or federal laws. Departmental maintenance of confidentiality of taxpayer information is subject to: public disclosure of whether or not a taxpayer is licensed; departmental disclosure as appropriate in collection or enforcement proceedings involving the taxpayer; release of departmental decisions and opinions on tax questions which describe the underlying facts and circumstances; and release of the information specifically authorized in SMC § 5.44.200.

Inspection of tax records: A taxpayer may inspect his or her own returns and other information the taxpayer supplied to the department, upon reasonable notice, during office hours. The department will presume that disclosing to a member of the public a taxpayer's return or information about a taxpayer's gross receipts (or taxes paid which are measured by gross receipts) would infringe the taxpayer's right to privacy and cause the taxpayer an unfair competitive disadvantage; the department will therefore deny inspection unless the requestor can provide authorization from the taxpayer or other authority to supersede the presumption.

General terms or conditions: A request for disclosure shall be made in writing identifying the material for inspection and/or copying precisely. The Director may require a person, who requests information, to present proper identification and/or authorization when disclosure is limited to particular persons or contingent upon satisfying other conditions; and the Director may limit inspection of information maintained on tape or machine coding to those extracts transcribed in response to the request.

Before supplying a list of individuals, the Director will require the person making the request to sign a statement that the information will not be used for commercial purposes as prohibited by RCW 42.17.260(5) and SMC § 5.44.200(A).

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The furnishing of copies of records and the supplying of special services and publications are subject to payment of fees authorized by SMC § 5.44.205.

The Director will evaluate requests involving department research or compilation of statistical information in light of the information requested, the work involved in preparing it, the purpose of its compilation, and the impact of complying with the request on departmental work loads. Statistical information released will be of general data, or, at least so classified, as to prevent identification of individual tax returns or information about individual taxpayers.

When required, fees are payable on or before delivery of the information.

Rule 8. Schedule payments of underpaid taxes.

In order to encourage compliance with tax payments and due date requirements of Chapter 5.44 and Chapter 5.46 of the Seattle Municipal Code, all payments of penalties, interest, and tax shall be due and payable as required by those Chapters, except that the Director may accept partial payments of penalties, interest and tax from a taxpayer when the following conditions exist:

1. The taxpayer has not failed to make a good faith response to a debit note, demand letter or other request by the Department for payment prior to his or her request for partial payment; or failure to respond is the result of events beyond the control of the taxpayer that would qualify for a waiver pursuant to WAC 458-20-228.
2. The taxpayer has voluntarily contacted the Department, in good faith, to pay all amounts due on a partial payment schedule; and
3. The taxpayer agrees to pay interest owed on delinquent amounts; and
4. The partial payment schedule shall not exceed one year, measured from the date of first payment to the date of the last payment; and
5. The taxpayer waives his or her right to appeal the tax determination.

The payment schedule shall be documented on a form or in a format provided by the Department.

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Rule 9. Allocation of Proceeds of Construction "Contracting".

Purpose: This rule provides for the allocation of the gross proceeds of sales of contractors who engage in business in Seattle and also elsewhere. It also harmonizes the principles for allocating the gross receipts of a taxpayer, who engages in construction contracting in two or more Washington cities, with the principles for allocating gross income between Washington cities in SMC § 5.44.075 with respect to property maintenance services. Rule 1(a), in adopting WAC 458-20-170 and WAC 458-20-172 with amendments, provides guidance in classifying particular "contracting" activity as "retailing" or "services and other business activity" for purposes of determining the applicable tax rate under SMC § 5.44.030.

Definitions: As used in this rule:

"Buildings or other structures" has the meaning in WAC 458-20-170.

"Contractor" means a "prime contractor" or "subcontractor" as defined in WAC 458-20-170.

"Contracting" means "contracting, repairing, decorating or improving of new and existing buildings or other structures" as defined in WAC 458-20-170. Unless the contractor is engaged in the business of providing a delivery service, "contracting" contemplates more activity than simply making delivery at a site, and unloading, uncrating or unwrapping, or testing of supplies or equipment incidental to delivery.

"Office" means a place where the contractor holds himself or herself out to the public for the regular transaction of business. An office has a mailing address and usually a telephone listing, serves as a central location for the administration of the contractor's business and contains general business records. A building or shelter on a construction site may constitute an office for purposes of allocating income between offices in Seattle and also elsewhere (Rule 9(c)) when the on-site location has a resident supervisor and a separate telephone listing, and the contractor hires employees or subcontractors and orders supplies and materials from there.

9(a) - On-site work in Seattle:

Every contractor is subject to Seattle's Business and Occupation tax measured by the gross proceeds of sales derived from "contracting" on buildings or other structures located in Seattle and/or on a public works contract with the municipal corporation of The City of Seattle. No deduction is allowed on the gross proceeds of on-site "contracting" in Seattle or on a contract with The City of Seattle, itself because the contractor may maintain an office, incur expenses, or do preparatory work outside Seattle.

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9(b) - Only Office in Seattle:

Every contractor, who maintains an office within Seattle and not elsewhere, is subject to Seattle's Business and Occupation tax measured by (i) the gross proceeds of sales arising from "contracting" on all buildings or other structures or with the City of Seattle, itself in Seattle; and (ii) the gross proceeds of sales administered or processed through the contractor's Seattle office even though the buildings or other structures may be located elsewhere in Washington. The contractor may deduct from the gross proceeds of sales taxable under subsection (ii) (office inside Seattle; construction site outside) the proceeds of those sales which satisfy these three criteria:

- (1) The contractor derives the sales from "contracting" on buildings or other structures located in another Washington city;
- (2) The contractor pays a business license fee or tax to the city where the buildings or other structures are located, and the fee or tax is measured as a percentage of the contractor's proceeds of sales or gross receipts; and
- (3) The proceeds of the sales, which are deducted in calculating the Seattle tax, are used in determining the amount of taxes paid to the other Washington city.

The proceeds of a sale are counted only once in calculating Seattle's business tax although the contractor's office and building site are both in Seattle.

9(c) - Offices in Seattle and elsewhere in Washington:

A contractor who maintains an office within Seattle and one or more office(s) elsewhere in the State of Washington, may allocate his or her gross proceeds of sales to reflect the business activity rendered at or through each business location. Rule 9(a) applies to the gross proceeds of sales derived from "contracting" on buildings or other structures within Seattle or with the City of Seattle, itself; Rule 9(b) applies to the gross proceeds of sales allocated to the contractor's Seattle office. The amount of tax due Seattle is measured by the sum of Rule 9(a) and Rule 9(b).

Effective July 1, 1984, rules and regulations, Number 1 to 9, inclusive, are hereby adopted and published to implement Seattle Municipal Code Chapter 5.44. These rules and regulations supersede the earlier rules and regulations, adopted April 15, 1980, as amended and supplemented from time to time.

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The Revenue Act imposes taxes upon persons engaged in business but not upon persons acting solely in the capacity of employees or servants.

The question of whether a person is engaged in business or is acting in the capacity of an employee is not always readily determinable. The following rules may, however, be accepted as a guide but are not necessarily controlling in individual cases. In cases of doubt all the facts should be submitted to the Department of Revenue for a specific ruling.

PERSONS ENGAGING IN BUSINESS. A person engaging in business is generally one who holds himself out to the public as engaging in business either in respect to dealing in real or personal property or in respect to the rendition of services; one to whom gross income of the business inures; one upon whom liability for losses lies or who bears the expense of conducting a business; one, generally, acting in an independent capacity, whether or not subject to immediate control and supervision by a superior, or one who acts as an employer and has employees subject to his control and supervision.

Persons employed by retailers or wholesalers, and selling on their own account tangible personal property of a type sold by their employers, are deemed to be engaging in business and must apply for and obtain a Business License and pay the business and occupation tax upon sales made by them, irrespective of the amount or frequency of such sales.

EMPLOYEES AND SERVANTS. An employee or servant is an individual whose entire compensation is fixed at a certain rate per day, week or month, or at a certain percentage of the business obtained by such employee or servant, payable in all events; one who has no direct interest in the income or profits of the business other than a wage or commission; one who has no liability for the expenses of maintaining an office or place of business, for other overhead or for compensation of employees; one who has no liability for losses or indebtedness incurred in conducting the business; one whose conduct with respect to services rendered, obtaining of, or transacting business, is supervised or controlled by the employer. A corporation, joint venture, or any group of individuals acting as a unit, is not an employee or servant.

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Persons who furnish equipment on a rental basis and also furnish operators therefore, are presumed to be engaging in business and not to be employees or servants. Likewise, persons who furnish materials and the labor necessary in the placing or fabricating thereof are also presumed to be engaging in business and not to be employees or servants. The burden of proof will be upon such persons to show otherwise.

The fact that a person is construed to be an employee under the provisions of the State Employment Security Act or the Federal Social Security Act, does not conclusively establish such persons as an employee within the provisions of the Revenue Act. However, where a person is not construed to be an employee under the State Employment Security Act or the Federal Social Security Act, such person will not be considered an employee under the Revenue Act.

BUILDING TRADES. Persons regularly performing odd job carpentry, painting or paperhanging, plumbing, bricklaying, electrical work, etc., for the public generally are presumed to be engaging in business. The burden of proof is upon such persons to show otherwise. Here it is immaterial whether the workman is paid by the job, by the day or by the hour. It is likewise immaterial that the workman may supply labor only, any materials used being supplied by the property owner.

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CASUAL OR ISOLATED SALES; BUSINESS REORGANIZATIONS

A casual or isolated sale is defined by RCW 82.04.040 as a sale made by a person who is not engaged in the business of selling the type of property involved. Any sales which are routine and continuous must be considered to be an integral part of the business operation and are not casual or isolated sales.

Furthermore, persons who hold themselves out to the public as making sales at retail or wholesale are deemed to be engaged in the business of selling, and sales made by them of the type of property which they hold themselves out as selling, are not casual or isolated sales even though such sales are not made frequently.

In addition the sale at retail by a manufacturer or wholesaler of an article of merchandise manufactured or wholesaled by him is not a casual or isolated sale, even though he may make but one such retail sale.

BUSINESS AND OCCUPATION TAX

The business and occupation tax does not apply to casual or isolated sales.

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"The term 'selling price' means the consideration, whether money, credits, rights, or other property, expressed in the terms of money, paid or delivered by a buyer to a seller, all without any deduction, on account of the cost of tangible property sold, the cost of materials used, labor costs, interest, discount, delivery costs, taxes or any other expenses whatsoever paid or accrued and without any deduction on account of losses." (RCW 82.08.010.)

"The term 'gross proceeds of sales' means the value proceeding or accruing from the sale of tangible personal property...without any deduction on account of the cost of property sold, the cost of materials used, labor costs, interest, discount paid, delivery cost, taxes, or any other expense whatsoever paid or accrued and without any deduction on account of losses." (RCW 82.04.070.)

When tangible personal property is rented or leased, the "selling price" includes all charges to the renter or lessee for the use of the property rented or leased, including charges designated as insurance, interest and other costs recovered stated separately from the regular rental fee. When tangible personal property is rented or leased under circumstances that the consideration paid does not represent a reasonable rental for the use of the articles so rented or leased, the "selling price" must be determined as nearly as possible according to the value of such use at the places of use of similar products of like quality and character. In cases of doubt, all of the pertinent facts should be submitted to the Department of Revenue for an advisory determination.

The terms "selling price" and "gross proceeds of sales" include items of cost which are the direct obligation of the seller but which he may invoice separately to his customer. Examples of such costs are the cost of the contractor's performance bond, the cost of city or state business and occupation taxes or public utility taxes, the cost of insurance protecting the seller and the cost of freight in. The selling price can be payable in money or otherwise. If it is payable in whole or in part in property, each party is a seller of the property he is to transfer.

TRADE-INS. The selling price or gross proceeds of sales includes the full consideration whether in money or property or both expressed in terms of money. If traded-in property is subsequently resold at retail, the retail sales tax must be collected on the selling price thereof and the amount of such selling price must be reported by the seller as gross proceeds of sales.

To illustrate: An automobile is sold at retail for \$1,000.00. The purchaser pays \$600.00 in cash and is allowed \$400.00 as the trade-in value of a used automobile. The selling price, upon which the sales tax must be collected and the amount to be reported as gross proceeds of sales, is \$1,000.00. If the automobile traded-in is later sold for \$500.00 the sales tax must be collected on such selling price, and the amount of such selling price must be reported as gross proceeds of sales.

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In some industries it is customary to quote the purchaser an "exchange" price, i.e., a reduced price quoted in the expectation that the purchaser will trade in, or "exchange" a used article or the same type. In such case the selling price is the exchange price plus the value of the article exchanged.

WARRANTY OR SERVICE CONTRACTS. When a warranty or service contract is sold along with a sale of tangible personal property the entire charge is taxable as gross proceeds from the sale of tangible personal property. However, the sale of a warranty or service contract by itself is a transaction subject to business tax under the service classification upon gross income therefrom. A person performing repair work pursuant to a warranty or service contract is taxable as a retailer or wholesaler upon amounts received for performance of such work, including amounts received from another who may have sold the warranty or service contract and amounts received from the owner of the property. If the repairman himself issued the warranty or service contract, he is taxable as a retailer or wholesaler upon any additional amounts received at the time repair work is done. The sale of a maintenance contract which calls for regular or periodic maintenance, repair or adjustment of tangible personal property is taxable as a retail or wholesale sale, as the case may be.

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When a contract of sale is made subject to cancellation at the option of one of the parties or to revision in the event the goods sold are defective or if the sale is made subject to cash or trade discount, the gross proceeds actually derived from the contract and the selling price are determined by the transaction as finally completed.

RETURNED GOODS. When sales are made either upon approval or upon a sale ~~and~~ or return basis, and the purchaser returns the property purchased and the entire selling price is refunded or credited to the purchaser, the seller may deduct an amount equal to the selling price from gross proceeds of sales in computing tax liability, if the amount of sales tax previously collected from the buyer has been refunded by the seller to the buyer. If the property purchased is not returned within the guaranty period as established by contract or by customs of the trade, or if the full selling price is not refunded or credited to the purchaser, a presumption is raised that the property returned is not returned goods but is an exchange or a repurchase by the vendor.

To Illustrate: S sells an article for \$60.00 and credits his sales account therewith. The purchaser returns the article purchased within the guaranty period and the purchase price and the sales tax theretofore paid by the buyer is refunded or credited to him. S may deduct \$60.00 from the Gross Amount reported on his tax return.

DEFECTIVE GOODS. When bona fide refunds, credits or allowances are given within the guarantee period by a seller to a purchaser on account of defects in goods sold, the amount of such refunds, credits or allowances may be deducted by the seller in computing tax liability, if the proportionate amount of the sales tax previously collected from the buyer has been refunded by the seller.

S sells an article to B for \$60.00 and credits his sales account therewith. The article is later found to be defective.

a. S gives B a credit of \$50.00 on account of the defect, and also a credit of sales tax collectible on that amount. S may deduct \$50.00 from the Gross Amount reported in his tax returns. This is true whether or not B retains the defective article.

b. B returns the article to S who gives B an allowance for \$50.00 on a second article on the same kind which B purchases for an additional payment of \$10.00, plus sales tax thereon. S may deduct \$50.00 from the Gross Amount reported in his tax returns. The sale of the second article, however, must be reported for tax purposes as a \$60.00 sale and included in the Gross Amount in his tax return.

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c. B returns the article to S who replaces it with a new article of the same kind free of charge, and without sales tax. S may deduct \$60.00 from the Gross Amount reported in his tax returns, but the \$60.00 selling price of the substituted article must be reported in the Gross Amount.

No deduction is allowed from the Gross Amount reported for tax if S in "b" and "c" above, does not credit his sales account with the selling price of the new article furnished to replace the defective one, but instead merely credits the sales account with an amount equal to additional payment received, if any. In such case, the allowance for the defect is already shown in the sales account by the reduced sales price of the new article.

DISCOUNTS. The selling price of a service or of an article of tangible personal property does not include the amount of bona fide discounts actually taken by the buyer and the amount of such discount may be deducted from gross proceeds of sales providing such amount has been included in the Gross Amount reported. Discounts are not deductible under the retail sales tax when such tax is collected upon the selling price before the discount is taken and no portion of the tax is refunded to the buyer. Discount deductions will be allowed under the Extracting or Manufacturing classifications only when the value of the products is determined from the gross proceeds of sales. Patronage dividends which are granted in the form of discounts in the selling price of specific articles (for example, a rebate of one cent per gallon on purchases of gasoline) are deductible. (Some types of patronage dividends are not deductible. See ~~rule 219.~~ WAC 458-20-219.)

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WAC-458-20- FINANCE CHARGES, CARRYING CHARGES, INTEREST, PENALTIES
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BUSINESS AND OCCUPATION TAX

Persons who receive finance charges, carrying charges, service charges, penalties and interest are taxable with respect thereto under the Service and Other Business Activities classification.

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WAC-458-20- FREIGHT AND DELIVERY CHARGES
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Amounts received by a seller from a purchaser for freight and delivery costs incurred by the seller prior to completion of sale constitute recovery of costs of doing business and must be included in the selling price or gross proceeds of sales reported by the seller regardless of whether charges for such costs are billed separately and regardless of whether the seller is also the carrier.

Freight and delivery costs incurred by a lessor, regardless of whether billed separately to a lessee or not, are costs of doing business to the lessor in every case and must be included in the selling price or gross proceeds of sales reported by the lessor.

"Reimbursements" received by a seller for the actual amount of freight and delivery costs advanced for a purchaser after completion of sale are deductible from the selling price or gross proceeds of sales. (See ~~Rule 111.~~ WAC-458-20-111.)

Where the seller is the carrier and separate delivery charges, in addition to the selling price, are made to a purchaser after completion of sale, such charges may not be deducted by the seller from the selling price.

Note: See ~~Rule 112~~ WAC-458-20-112 for the deduction of out-of-state freight and delivery charges from "value of products".

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The word "advance" as used herein, means money or credits received by a taxpayer from a customer or client with which the taxpayer is to pay costs or fees for the customer or client.

The words "reimbursement" as used herein, means money or credits received from a customer or client to repay the taxpayer for money or credits expended by the taxpayer in payment of costs or fees for the client.

The word "advance" and "reimbursement" apply only when the customer or client alone is liable for the payment of the fees or costs and when the taxpayer making the payment has no personal liability therefor, either primarily or secondarily, other than as agent for the customer or client.

There may be excluded from the measure of tax amounts representing money or credit received by a taxpayer as reimbursement of an advance in accordance with the regular and usual custom of his business or profession.

The foregoing is limited to cases wherein the taxpayer, as an incident to the business, undertakes, on behalf of the customer, guest or client, the payment of money, either upon an obligation owing by the customer, guest or client to a third person, or in procuring a service for the customer, guest or client which the taxpayer does not or cannot render and for which no liability attaches to the taxpayer. It does not apply to cases where the customer, guest or client makes advances to the taxpayer upon services to be rendered by the taxpayer or upon goods to be purchased by the taxpayer in carrying on the business in which the taxpayer engages.

For example, where a taxpayer engaging in the business of selling automobiles at retail collects from a customer, in addition to the purchase price, an amount sufficient to pay the fees for automobile license, tax and registration of title, the amount so collected is not properly a part of the gross sales of the taxpayer but is merely an advance and should be excluded from gross proceeds of sales. Likewise, where an attorney pays filing fees or court costs in any litigation, such fees and costs are paid as agent for the client and should be excluded from the gross income of the attorney.

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On the other hand, no charge which represents an advance payment on the purchase price of an article or a cost of doing or obtaining business, even though such charge is made as a separate item, will be construed as an advance or reimbursement. Money so received constitutes a part of gross sales or gross income of the business, as the case may be. For example, no exclusion is allowed with respect to amounts received by (1) a doctor for furnishing medicine or drugs as a part of his treatment; (2) a dentist for furnishing gold, silver or other property in conjunction with his services; (3) a garage for furnishing parts in connection with repairs; (4) a manufacturer or contractor for materials purchased in his own name or in the name of his customer if the manufacturer or contractor is obligated to the vendor for the payment of the purchase price, regardless of whether the customer may also be so obligated; (5) any person engaging in a service business or in the business of installing or repairing tangible personal property for charges made separately for transportation or traveling expense.

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The term "value of products" includes the value of by-products and except as provided herein, shall be determined by "gross proceeds of sales" whether such sales are at wholesale or at retail, to which shall be added all subsidies and bonuses received with respect to the extraction, manufactured, or sale thereof.

"The term 'gross proceeds of sales' means the value proceeding or accruing from the sale of tangible personal property...without any deduction on account of the cost of property sold, the cost of materials used, labor costs, interest, discount paid, delivery costs, taxes, or any other expense whatsoever paid or accrued and without any deduction on account of losses." (RCW 82.04.070.)

IN THE CASE OF BONA FIDE SALES OF PRODUCTS. The law provides (RCW 82.04.450.), that under the Extracting and Manufacturing classifications of the business and occupation tax the value of products extracted or manufactured shall be determined by the gross proceeds of sales in every instance in which a bona fide sale of such products is made, and whether sold at wholesale or at retail.

SALES TO POINTS OUTSIDE THE STATE. In determining the value of products delivered to points outside the state there may be deducted from the gross proceeds of sales so much thereof as the taxpayer can show to be actual transportation costs from the point at which the shipment originates in this state to the point of delivery outside the state.

ALL OTHER CASES. The law provides that where products extracted or manufactured are

1. For commercial or industrial use (by the extractor or manufacturer—see ~~Rule 134~~ WAC-458-20-134); or
2. Transported out of the state, or to another person without prior sale; or
3. Sold under circumstances such that the stated gross proceeds from the sale are not indicative of the true value of the subject matter of the sale;

the value shall correspond as nearly as possible to the gross proceeds from other sales at comparable locations in this state of similar products of like quality and character, in similar quantities, under comparable conditions of sale, to comparable purchasers, and shall include subsidies and bonuses.

In the absence of sales of similar products as a guide to value, such value may be determined upon a cost basis. In such cases, there shall be included every item of cost attributable to the particular article or article extracted or manufactured, including direct and indirect overhead costs.

~~NONBUSINESS INCOME--BONA FIDE INITIATION FEES, DUES, CONTRIBUTIONS,
DONATIONS, TUITION FEES AND ENDOWMENT FUNDS.~~

~~Amounts derived from bona fide initiation fees, dues, contribu-
tions, donations, tuition fees and endowment funds may be deducted
from the measure of tax under the business and occupation tax.
(RCW 82.04.430(2)). This deduction is construed strictly and such
amounts may be deducted only if:~~

- ~~1. They are bona fide, and~~
- ~~2. They have been included in the Gross Amount reported
under the classification with respect to which the deduction
is sought, and~~
- ~~3. They have not been otherwise deducted through inclusion
in the amount of an allowable deduction taken under such
classification for another reason, and~~
- ~~4. They do not exceed the limitations hereinafter set forth.~~

~~Amounts which may be deducted as initiation fees are those amounts
only which are actually required to be paid by a person to a club
or similar organization for the sole privilege of joining such club
or similar organization.~~

~~Amounts which may be deducted as dues are those amounts only which
a member must pay toward the support of a club or similar organiza-
tion in order to retain membership therein. Amounts which are for,
or graduated upon, the amount of services rendered to a member of
such club or organization may not be deducted. The terms "dues"
and "initiation fees" must be given t meaning and do
not include, for example, amounts paid to trade or industry assoc-
iations for services rendered and such payments are proportional to
the size and volume of the member's business or manufacturing
operations. RCW 82.04.4282 provides for a business and occupation
tax deduction for amounts derived from activities and charges of
essentially a non-business nature. Thus, outright gifts, dona-
tions, contributions, endowments, tuition, and initiation fees and
dues which do not entitle the payor to receive any significant
goods or services in return for the payment are not subject to
business and occupation tax. The scope of this statutory deduction
is limited to situations where no business or proprietary activity
(including the rendering of goods or services) is engaged in which
directly generates the income claimed for deductions.~~

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Many for-profit or nonprofit entities may receive "amounts derived," as defined in this rule, which consist of mixture of tax deductible amounts (bona fide initiation fees and dues) and taxable amounts (payment for significant goods and services rendered). For purposes of distinguishing between these kinds of income, the law requires that tax exemption provisions must be strictly construed against the person claiming exemption. Also, RCW 82.32.070 requires the maintenance of suitable records as may be necessary to determine the amount of any tax due. The result of these legal requirements is that all persons must keep adequate records sufficient to establish their entitlement to any claimed tax exemption or deduction.

CONTRIBUTIONS, DONATIONS, AND ENDOWMENTS.

Only amounts which are received as outright gifts are entitled to deduction. Any amounts, however designated, which are received in return for any goods, services, or business benefits are subject to business and occupation tax under the appropriate classification depending upon the nature of the goods, services, or benefits provided. Thus, for example, so-called "grants" which are received in return for the preparation of studies, white papers, reports, and the like do not constitute deductible contributions, donations, or endowments. RCW 82.04.4297 and WAC 458-20-169 provide for a specific deduction for compensation from public entities for health or social welfare services.

BONA FIDE INITIATION FEES AND DUES.

The law does not contemplate that the deduction should be granted merely because the payments required to be made by members or customers are designated as "initiation fees" or "dues." The statutory deduction is not available for outright sales of tangible personal property or for providing facilities or services for a specific charge. Neither is it available "... if dues are in exchange for any significant amounts of goods or services rendered by the recipient thereof to members without any additional charge to the member, or if the dues are graduated upon the amount of goods or services rendered . . ." (RCW 82.04.4282). Thus, it is only those initiation fees and dues which are paid for the express privilege of belonging as a member of a club, organization, or society, which are deductible.

Also, the statute does not distinguish between the kinds of clubs, organizations, associations, or other entities which may be eligible for this deduction. They may be operated for profit or nonprofit. They may be owned by the members, incorporated, or operating as a partnership, joint venture, sole proprietorship, or cooperative group. They may be of a charitable, fraternal, social, political, benevolent, commercial, or other nature. However, none

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of these characteristics determines the entitlement to tax deduction. The availability of the deduction is determined solely by the nature of the activity or charge which generates the "amounts derived" as defined in this rule.

The deduction is limited to business and occupation tax. (See WAC 458-20-183, Places of amusement or recreation, and WAC 458-20-166, Hotels, motels, boarding houses, resorts, summer camps, trailer camps, etc., for additional guidance relative to retail sales and retail services.)

DEFINITIONS:

The words and terms utilized in RCW 82.04.4282 are not given a statutory definition in the Revenue Act. Under the general rules of statutory construction, those words and terms are to be given their ordinary and common meaning. Hence, for purposes of RCW 82.04.4282 and this rule the following definitions will apply:

"Amounts derived" means gross income from whatever source and however designated. It includes "gross proceeds of sales" and "gross income of the business" as those terms are defined by RCW 82.04.070 and 82.04.080, respectively. It shall also include income attributable to bona fide initiation fees and bona fide dues.

"Bona fide" shall have its common dictionary meaning, i.e., in good faith, authentic, genuine.

"Initiation fees" are those initial amounts which are paid solely to admit a person as a member to a club or organization. "Bona fide initiation fees" within the context of this rule shall include only those one-time amounts paid which genuinely represent the value of membership in a club or similar organization. It shall not include any amount paid for or attributable to the privilege of receiving any goods or services other than mere nominal membership.

"Dues" are those amounts paid solely for the privilege or right of retaining membership in a club or similar organization. "Bona fide dues" within the context of this rule shall include only those amounts periodically paid by members which genuinely entitle those persons to continued membership in the club or similar organization. It shall not include any amounts paid for goods or services rendered to the member by the club or similar organization.

"Significant amount" relates to the quantity or degree of goods or services rendered and made available to members by the organization. "Significant" is defined as having important meaning or the quality of being important.

"Goods or services rendered" shall include those amusement and recreation activities as defined in RCW 82.04.050, WAC 458-20-166, and 458-20-183. The term shall include the totality or aggregate of goods or services available to members. It is not determinative that some members actually receive more goods or actually enjoy more services than others so long as the totality of the goods or services offered are made available to members in general.

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"Any additional charge" means a price or payment other than bona fide initiation fees or dues, paid by persons for particular goods and services received. The additional charge must be reasonable and any business taxes must be paid upon such charges in order to qualify other income denominated as "dues" to be deductible. The reasonableness of any additional charge will be based on one of the following two criteria: (1) It must cover all costs reasonably related to furnishing the goods or services, or (2) it must compare with charges made for similar goods or services by other commercial businesses.

"Value of such goods or services" shall mean the market value of similar goods or services or computed value based on costs of production.

METHODS OF REPORTING:

Persons who receive any "amounts derived" from initiation fees and/or dues may report their tax liabilities and determine the amount of tax reportable under different classifications (Retailing or Service) by use of alternative methods, based upon:

1. A standard deduction of 20 percent of gross income. (This method is available for use only by not-for-profit organizations); or,
2. Actual records of facilities usage; or,
3. Cost of production of facilities and benefits.

All amounts derived from initiation fees and dues must be reported as gross income which then must be apportioned between taxable and deductible income. The alternative apportionment methods are mutually exclusive. Thus, if a qualifying organization elects to use the standard deduction, neither of the other methods may be used. Organizations which cannot qualify to take the standard deduction, or which elect not to do so, may apportion their income based upon such actual records of facilities usage as are maintained. This method is accomplished by:

- a) The allocation of a reasonable charge for the specific goods or services rendered: PROVIDED, That in no case shall any allocation of any separate charge for any goods or services be deemed "reasonable" if the aggregate of such charges is insufficient to cover the costs of providing such goods or services; or,

b) The average comparable charges for such goods or services made by other commercial businesses.

The actual records of facilities usage method must reflect the nature of the goods or services and the frequency of use by the membership, either from an actual tally of times used or a periodic study of the average membership use of facilities. Actual usage reporting may also be based upon a graduated or sliding fees and dues structure. For example, an organization may charge different initiation fees or dues rates for a social membership than for a playing membership. The difference between such rates is attributable to the value of the goods or services rendered. It constitutes the taxable portion of the "amounts derived" allocable to that particular activity. Because of the broad diversification of methods by which "amounts derived" may be assessed or charged to members, the actual records of usage method of reporting may vary from organization to organization. The following are some examples of this reporting method for several different kinds of facilities.

<u>Facility</u>	<u>Period</u>	<u>Source</u>	<u>Value Base</u>	<u>Usage</u>	<u>Value</u>	<u>Taxable Income</u>
<u>Golf</u>	<u>3 mos</u>	<u>Reservations</u>	<u>Mkt Comparison</u>	<u>5,000 rounds</u>	<u>* \$7.50 per Round</u>	<u>\$37,500</u>
<u>Camping</u>	<u>6 mos</u>	<u>Vacancy Study</u>	<u>Mkt Comparison</u>	<u>4,500 stays</u>	<u>X \$12.50 per Stay</u>	<u>\$56,250</u>
<u>Racquetball</u>	<u>9 mos</u>	<u>Reservations</u>	<u>Charge to Nonmember</u>	<u>1,250 hours</u>	<u>X \$4.00 per Hour</u>	<u>\$5,000</u>
<u>Swimming</u>	<u>12mos</u>	<u>Member Survey</u>	<u>Actual Charges</u>	<u>3,650 uses</u>	<u>X \$1.00 per Use</u>	<u>\$3,650</u>
<u>Tennis</u>	<u>1 mo</u>	<u>Graduated Fee Structure</u>	<u>Graduated Fee Structure</u>	<u>200 playing members</u>	<u>X \$0.00 per Member</u>	<u>\$10,000</u>

* Figures and dollar amounts shown are hypothetical.

Organizations which provide more than one kind of "goods or services" as defined in this rule, may provide such actual records for each separate kind of goods or services rendered. Based upon this method the total of apportioned "taxable" income may be subtracted from total gross income to derive the amount of gross income which is entitled to deduction as "bona fide initiation fees and dues" under RCW 82.04.4282.

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This alternative apportionment method is available only for persons who do not take the standard deduction and when, it is impossible or unfeasible to maintain actual usage records. Under such circumstances apportionment of income may be done based upon the cost of production of goods or services rendered. Persons using this method are advised to seek the department's review of the cost accounting methods applied, in order to avoid possible tax deficiency assessment if records are audited. In such cases the cost of production shall include all items of expense attributable to the particular facility (goods or services) made available to members, including direct and indirect overhead costs.

Direct overhead costs include all items of expense immediately associated with the specific goods or services for which the costs of production method is used, e.g., the salary of a swimming pool lifeguard or a golf club's greenskeeper.

Indirect overhead costs include a pro rata share of total operating costs, including executive and employee salaries as well as a pro rata share of administrative expense and the cost of depreciable capital assets.

No portion of assets which have been fully depreciated will be included in computing overhead costs, nor will there be included any costs attributable to membership recruitment and advertising, or providing members with the indicia of membership (membership cards, certificates, contracts or rights, etc.)

The cost of production method is performed by multiplying gross income (all "amounts derived") by a fraction, the numerator of which is the cost of providing any specific goods or service, and the denominator of which is the organizations's total operating costs. The formula looks like this:

Direct and Indirect Costs of Specific Goods or Service

.....X Gross Income

Total Business Costs

The result is the portion of "amounts derived" which is allocable to the taxable facility (goods or services rendered.) The balance of gross amounts derived is deductible as bona fide initiation fees or dues. If more than one kind of facility (goods or services) is made available to members, this formula must be applied for each in order to determine the total of taxable and deductible amounts and to determine the amount of taxable income to report as either retailing taxable or service taxable.

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Under very unique circumstances and only upon advance written request and approval, the department will consider variations of the foregoing accounting methods as well as additional factors shown to be unique to certain kinds of organizations.

Unless income accounting and reporting are accomplished by one or a combination of methods outlined in this rule, or under a unique reporting method authorized in advance by the department, it will be presumed that all "amounts derived" by any person who provides "goods or services" as defined herein, constitute taxable, nondeductible amounts.

TAX CLASSIFICATIONS.

Persons who derive income from initiation fees and dues may find that they have incurred business and occupation tax liability under both the retailing and service and other activities classifications. For example, an organization may furnish golf as well as sauna bath facilities to its members in return for payment of dues. The former is a retailing taxable activity while the latter is taxable under the service business tax. These taxes are at different rates. Once the income has been apportioned between taxable and deductible amounts, the parts of taxable income attributable to either retailing activities or service activities must be reported on the tax return under the appropriate classification and under the prevailing tax rates. (See WAC 458-20-183, 458-20-166, and RCW 82.04.050 for further guidance in distinguishing between retailing and service activities for tax purposes.)

NONPROFIT YOUTH ORGANIZATIONS.

Nonprofit youth organizations which, as such, are exempt from property tax under RCW 84.36.030 may deduct fees or dues received from members even though the members are entitled to use the organization's facilities, including camping and recreational facilities, in return for such payments. (See RCW 82.04.4271).

TUITION FEES.

The term "tuition fees" refers only to fees charged by educational institutions, and, in addition to instruction fees, includes library, laboratory, health and other special fees and amounts charged for room and board when the property or service for which such charges are made is furnished exclusively to the students or faculty of such institutions.

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"Educational institutions" which may deduct "tuition fees" are those which have been created or generally accredited as such by the state and which offer to students an educational program of a general academic nature and those institutions which are not operated for profit and which are privately endowed under a deed of trust to offer instruction in trade, industry and agriculture, but not including specialty schools, business colleges, other trade schools or similar institutions.

A business college, dancing school, music school or specialty school is not an "educational institution" within the meaning of that term as defined above. Tuition fees collected by such institutions are taxable under the Service and Other Business Activities classification of the business and occupation tax.

The right to deduct bona fide initiation fees, dues, contributions, donations, tuition fees and endowment funds does not exempt any person, association or society from tax liability upon selling tangible personal property or upon providing facilities or services for which a special charge is made to members or others.

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Amounts derived from the sale and rental of real estate are exempt from taxation under the business and occupation tax. However, there is no exemption of amounts derived from engaging in ~~any~~ business wherein a mere license to use or enjoy real property is granted. Further, no exemption is allowed for amounts received as commissions for the sale or rental of real estate. (RCW 82.04.390) nor for interest received by persons engaged in the business of selling real estate on time or installment contracts. For purposes of distinguishing the lease or rental of real estate from the granting of a license to use real estate (taxable under various other classifications of the business and occupation tax) the Department of Revenue will be guided by the following principles.

LEASE OR RENTAL OF REAL ESTATE. A lease or rental of real property conveys an estate or interest in a certain designated area of real property with an exclusive right in the lessee of continuous possession against the world, including the owner, and grants to the lessee the absolute right of control and occupancy during the term of the lease or rental agreement. An agreement will not be construed as a lease of real estate unless a relationship of "landlord and tenant" is created thereby. It is presumed that the sale of lodging by a hotel, motel, tourist court, etc., for a continuous period of thirty days or more is a rental of real estate. It is further presumed that all rentals of apartments and leased departments constitute rentals of real estate.

LICENSE TO USE REAL ESTATE. A license grants merely a right to use the real property of another but does not confer exclusive control or dominion over the same. Usually, where the grant conveys only a license to use, the owner controls such things as lighting, heating, cleaning, repairing and opening and closing the premises.

It will be presumed that license to use or enjoy real property is granted in the rental of the following:

1. Hotel rooms (for periods of less than 30 continuous days; See ~~Rule 166~~). WAC 458-20-166).
2. Motels, tourist courts and trailer parks (for periods of less than 30 continuous days; See ~~Rule 166~~). WAC-458-20-166).
3. Cold storage lockers (See ~~Rule 133~~). WAC-458-20-133).
4. Safety deposit boxes.
5. Storage space (See ~~Rule 182~~). WAC-458-20-182).
6. Space within park or fair grounds to a concessionaire.

WAC-458-20- SALES OF MEALS

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BUSINESS AND OCCUPATION TAX

All persons making sales of meals, upon which the retail sales tax applies under the provisions set forth in this ruling, are required to pay the business and occupation tax under the Retailing classification upon the gross proceeds derived from such sales.

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SALES OF FEED, SEED, FERTILIZER AND SPRAY MATERIALS

As used in this ruling:

The word "feed" means a substance used as food for animals or poultry, and includes whole and processed grains or mixtures thereof, hay and forages or meals made therefrom, mill feeds and feeding concentrates, stock salt, hay salt, bone meal, cod liver oil, double purpose limestone grit, oyster shell and other similar substances used to sustain or improve livestock or poultry. The word does not include substances which do not contribute directly to a resulting agricultural product, such as peat moss or litter, nor does it include hormones or products which are used as medicines rather than as food.

The word "seed" means propagative portions of plants, commonly used for seeding or planting whether true seeds, bulbs, plants, seedlike fruits, seedlings or tubers.

The word "fertilizer" means a substance which increases the productivity of the soil by adding plant foods or nutrients which improve and stimulate plant growth.

The term "spray materials" means materials in liquid, powder or gaseous form used by agricultural producers as described in RCW 82.04.330 for the purpose of controlling or destroying insects, parasites, vermin, animals, fungi, weeds, pests or plants of a similar nature, deleterious to the growth or conservation of horticultural plants, animals, or products derived therefrom. It does not include mechanical devices for the elimination of pests nor does it include materials used for spraying forest trees by commercial timber producers.

BUSINESS AND OCCUPATION TAX

Persons engaged in the business of selling feed, seed, fertilizer or spray materials are taxable under either the Retailing or Wholesaling classification on gross proceeds of sales. (See Rule ~~161~~ WAC 458-20-161 for special classification of sales of unprocessed wheat, oats, ~~dry peas~~, corn, ~~or barley~~, or rye).

Persons engaged in the business of spraying crops for hire are taxable under the Service and Other Business Activities classification on the gross income therefrom.

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WAC-458-20- PUBLIC AND LENDING LIBRARIES

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DEFINITIONS. The term "public libraries" as used herein means libraries operated by the state or by any governmental unit, as the term is defined by RCW 27.12.010.

The term "lending libraries" as used herein has reference to all libraries other than those operated by the state or by a governmental unit.

BUSINESS AND OCCUPATION TAX

RETAILING. Lending libraries are taxable under the Retailing classification upon the gross proceeds of sales and rental of all books and periodicals.

~~public libraries are not subject to the provisions of the business and occupation tax.~~ For tax liability of public libraries see WAC-458-20-189.

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WAC-458-20- RESTAURANTS, SODA FOUNTAINS, COCKTAIL BARS, BEER PARLORS, ETC.
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As used herein, the term "restaurants, soda fountains, cocktail bars, beer parlors, etc.," means every place where prepared foods and beverages are sold and served to individuals, generally for consumption on the premises where sold.

GRATUITIES. Tips or gratuities representing donations or gifts by customers under circumstances which are clearly voluntary are not part of the selling price subject to tax. However, mandatory additions to the price by the seller, whether labeled service charges, tips, gratuities or otherwise must be included in the selling price and are subject to the retailing classification of the business and occupation tax.

BUSINESS AND OCCUPATION TAX

Taxable under the Retailing or Wholesaling classification upon the gross proceeds of sales.

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DEFINITIONS

As used herein:

The terms "real estate broker" and "real estate salesman" mean, respectively, a person licensed as such under the provisions of ~~Chapter 252, Laws of Washington, 1941, as amended.~~ Chapter 18.85 RCW.

BUSINESS AND OCCUPATION TAX

A real estate broker is engaged in business as an independent contractor and is taxable under the Service and Other Activities classification upon the gross income of the business.

The measure of the tax on real estate commissions earned by the real estate broker shall be the gross commission earned by the particular real estate brokerage office including that portion of the commission paid to salesmen or associate brokers in the same office on a particular transaction: provided, however, that where a real estate commission is divided between an originating brokerage office and a cooperating brokerage office on a particular transaction, each brokerage office shall pay the tax only upon their respective shares of said commission; and provided further, that where the brokerage office has paid the tax as provided herein, salesmen or associated brokers within the same brokerage office shall not be required to pay a similar tax upon the same transaction. ~~Chapter 82.04 RCW.~~ RCW 82.04.255.

Thus, with the exception of cooperating brokerage offices, no deduction is allowed for commissions, fees or salaries paid by a broker to another broker or salesman, nor for other expenses of doing business.

The term "gross income of the business" includes gross income from commissions, fees and other emoluments however designated which the agent receives or becomes entitled to receive, but does not include amounts held in trust for others. (See also ~~Rule III~~ WAC-458-20-111, Advances and Reimbursements.) No deductions are allowed for dues, charges, and fees paid to multiple listing associations.

Real estate salesmen are presumed to be independent contractors. They are subject to the Service and Other Activities classification of the business and occupation tax on gross income from real estate commissions and fees earned where the brokerage office at which the real estate salesman's license is posted has not paid the tax on the gross commission.

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GASOLINE SERVICE STATIONS

BUSINESS AND OCCUPATION TAX

RETAILING OR WHOLESALING. Persons operating gasoline service stations are taxable under the Retailing classification upon the gross proceeds of sales of tangible personal property, from services rendered with respect to the cleaning or repair of such property, gross income from towing and gross income from automobile parking and storage. On computing tax there may be deducted from gross proceeds of sales gross sales of motor vehicle fuel included therein.

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BUSINESS AND OCCUPATION TAX ~~RETAIL SALES TAX~~

Amounts derived from the sale of real estate are not subject to tax under the business and occupation tax. However, no exemption is allowed where a mere license to use real estate is granted (See WAC-458-20-118). Further, no exemption is allowed for commissions received in connection with sales or real estate nor for interest received by persons engaged in the business of selling real estate on time or installments contracts.

Sales of standing timber, minerals in place, and other natural resources in place are sales of real estate, and are not subject to tax under the business and occupation tax.

Timber, minerals, and other natural resources, after being severed from the real estate, lose their identity as real property, and sales thereof after severance are subject to the provisions of the business and occupation tax.

Any person who cuts timber or who mines or quarries minerals, or who takes other natural resources is subject to tax as an extractor under the business and occupation tax. (See ~~Rule 135.~~ WAC-458-20-135.)

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BUSINESS AND OCCUPATION TAX

Automobile dealers are taxable under the Retailing classification upon sales to their salesmen of automobiles for demonstration purposes.

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BUSINESS AND OCCUPATION TAX

Persons engaged in the business of renting frozen food lockers are taxable under the Service and Other Business Activities classification upon the gross income from rentals thereof.

When such persons also engage in the activities of curing, smoking, cutting or wrapping meat of and for consumers, or do any other act through which such meat is altered or improved, they become taxable under the Retailing or Wholesaling classification upon the gross charges made therefor.

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"The term 'commercial or industrial use' means the following uses of products, including by-products, by the extractor or manufacturer thereof: (1) Any use as consumer; and (2) The manufacturing of articles, substances or commodities." (RCW 82.04.130.)

Following are examples of commercial or industrial use:

1. The use of lumber by the manufacturer thereof to build a shed for his own use.
2. The use of a motor truck by the manufacturer thereof as a service truck for himself.
3. The use by a boat manufacturer of patterns, jigs and dies which he has manufactured.
4. The use by a contractor building or improving a publicly owned road of crushed rock or pit run gravel which he has extracted.

BUSINESS AND OCCUPATION TAX

Persons manufacturing or extracting tangible personal property for commercial or industrial use are subject to tax under the classifications Manufacturing or Extracting, as the case may be. The tax is measured by the value of the product manufactured or extracted and used. (See ~~Rule 112~~ WAC-458-20-112 for definition and explanation of value of products.)

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"The word 'extractor' means every person who, from his own land or from the land of another under a right or license granted by lease or contract, either directly or by contracting with others for the necessary labor or mechanical services, for sale or commercial or industrial use mines, quarries, takes or produces coal, oil, natural gas, ore, stone, sand, gravel, clay, mineral or other natural resource product, or fells, cuts or takes timber, Christmas trees or other natural products, or takes, cultivates, or raises fish, shellfish, or other sea or inland water foods or products; it does not include persons performing under contract the necessary labor or mechanical services for others." (RCW 82.04.100.)

The following examples are illustrative of operations which are included within the extractive activity:

1. Logging operations, including the bucking, yarding, and loading of timber or logs after felling, as well as the actual cutting or severance of trees.
2. Mining and quarrying operations, including the activities incidental to the preparation of the products for market, such as screening, sorting, washing tin, crushing, etc.
3. Fishing operations, including the cultivating or raising, in fresh or salt water, of fish, shellfish, or other sea or inland water foods or products (whether on publicly or privately owned beds, and whether planted and cultivated or not) for sale or commercial use. It includes the removal of the meat from the shell, and the cleaning and icing of fish or sea products by the person catching or taking them.
4. Construction of logging roads on federal or state land in connection with timber contracts, whether as an extractor or extractor for hire.

BUSINESS AND OCCUPATION TAX

EXTRACTING-LOCAL SALES. Persons who extract products in this state and sell the same at retail in this state are subject to the business and occupation tax under the classification Retailing and those who sell such products at wholesale in this state are taxable under the classification Wholesaling-All Other. Persons taxable under the classification Retailing and Wholesaling-All Others are not taxable under the classification Extracting with respect to the extracting of products so sold within this state.

EXTRACTING-INTERSTATE OR FOREIGN SALES. Persons who extract products in this state and sell the same in interstate or foreign commerce are taxable under the classification Extracting upon the value of the products so sold, and are not taxable under Retailing or Wholesaling-All Others in respect to such sales.

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EXTRACTING-FOR COMMERCIAL USE. Persons who extract products in this state and use the same as raw materials or ingredients of articles which they manufacture for sale are not taxable under Extracting. (For tax liability of such persons on the sale of manufactured products see ~~Rule-136~~ WAC-458-20-136. Manufacturing, Processing for Hire, Fabricating.)

Persons who extract products in this state for any other commercial or industrial use are taxable under Extracting on the value of products extracted and so used. (See ~~Rule-134~~ WAC-458-20-134 for definition of commercial or industrial use.)

EXTRACTING FOR OTHERS. Persons performing under contract, either as prime or subcontractors, the necessary labor or mechanical services for others who are engaged in the business as extractors, are taxable under the Service classification of the business and occupation tax upon their gross income from such service. If the contract includes the hauling of the products extracted over public ~~or private~~ roads, such persons are also taxable under the Service classification upon that portion of their gross income properly attributable to such hauling. However, the hauling for hire of logs or other forest products exclusively upon private roads is taxable under the Service classification of the business and occupation tax upon the gross income received from such hauling.

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DEFINITIONS

"The term 'to manufacture' embraces all activities of a commercial or industrial nature wherein labor skill is applied, by hand or machinery, to materials so that as a result thereof a new, different or useful substance or article of tangible personal property is produced for sale or commercial or industrial use, and shall include the production or fabrication of special made or custom made articles." (RCW 82.04.120.) It means the business of producing articles for sale, or for commercial or industrial use from raw materials or prepared materials by giving these matters new forms, qualities, properties, or combinations. It includes such activities as making, fabricating, processing, refining, mixing, slaughtering, packing, curing, aging, canning, etc. It includes also the preparing, packaging and freezing of fresh fruits, vegetables, fish, meats and other food products, the making of custom made suits, dresses, and coats, and also awnings, blinds, boats, curtains, draperies, rugs, and tanks, and other articles constructed or made to order. It also includes the generation or production of electrical energy for resale or consumption outside the State.

The word "manufacturer" means every person who, from his own materials or ingredients manufactures for sale, or for commercial or industrial use any articles, substance or commodity either:

1. Directly, or
2. By contracting with others for the necessary labor or mechanical services.

However, a nonresident of the State of Washington who owns materials processed for hire in this state is not deemed to be a manufacturer because of such processing. Further, any owner of materials from which a nuclear fuel assembly is fabricated in this state by a processor for hire is also not deemed to be a manufacturer because of such processing.

The term "to manufacture" does not include activities which consist of cutting, grading, or ice glazing of seafood which has been cooked, frozen, or canned outside this state; ~~are merely incidental to nonmanufacturing activities. Thus the following do not constitute manufacturing: washing and screening of coal, or the bucking and yarding of logs, by the extractors thereof, pasteurizing and bottling of milk by a dairy, cooking and serving of food by a restaurant, the mere cleaning and freezing of whole fish; or the repairing and reconditioning of tangible personal property for others. etc. Likewise, neither an artist, a portrait photographer, nor a prescription pharmacist is a manufacturer.~~

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The term "processing for hire" means the performance of labor and mechanical services upon materials belonging to others so that as a result a new, different and useful article of tangible personal property is produced. Thus, a processor for hire is any person who would be a manufacturer if he were performing the labor and mechanical services upon his own materials.

BUSINESS AND OCCUPATION TAX

MANUFACTURING-LOCAL SALES. Persons who manufacture products in this state and sell the same at retail in this state are subject to the business and occupation tax under the classification Retailing and those who sell such products at wholesale in this state are taxable under the classification Wholesaling-All Others. Persons taxable under the classification Retailing and Wholesaling-All Others are not taxable under the classification Manufacturing with respect to the manufacturing of products so sold within this state.

MANUFACTURING-INTERSTATE OR FOREIGN SALES. Persons who manufacture products in this state and sell the same in interstate or foreign commerce are taxable under the classification Manufacturing upon the value of the products so sold, and are not taxable under Retailing or Wholesaling-All Others in respect to such sales. The generation or production of electrical energy for resale or consumption outside the state is subject to tax under the Manufacturing classification.

MANUFACTURING FOR COMMERCIAL USE. Persons who manufacture products in this state for commercial or industrial use are taxable under the classification Manufacturing on the value of the products used. (See ~~Rule 134~~ WAC-458-20-134 for definition of commercial or industrial use.)

PROCESSING FOR HIRE. Persons processing for hire for consumers or for persons other than consumers are taxable under the ~~Service~~ Manufacturing classification upon the total charge made therefor.

MATERIALS FURNISHED IN PART BY CUSTOMER. In some instances, the person furnishing the labor and mechanical services under takes to produce a new article, substance, or commodity from materials or ingredients furnished in part by him and in part by the customer. In such instances, tax liability is as follows:

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1. The person furnishing the labor and mechanical services will be presumed to be the manufacturer if the value of the materials or ingredients furnished by him is equal to or exceeds 20% of the total value of all materials or ingredients which become a part of the finished product.

2. If the persons furnishing the labor and mechanical services furnishes materials constituting less than 20% of the value of all of the materials which become a part of the finished product, such person will be presumed to be processing for hire. The person for whom the work is performed is the manufacturer in that situation, and will be taxable as such.

In cases where the person furnishing the labor and mechanical services supplies, sells, or furnishes to the customer, ~~or purchases for the account of the customer,~~ before processing, 20% or more in value of the materials from which the finished product is made, the person furnishing the labor and mechanical services will be deemed to be the owner of the materials and taxable as a manufacturer.

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Persons engaged in the business of manufacturing in this state boilers, cabinets and mill work, cement blocks and pipes, conduits, heating equipment, lighting fixtures, sheet metal articles, venetian blinds, window drapes and shades, or other articles, and who also sell and install such articles after manufacture, are taxable as follows:

BUSINESS AND OCCUPATION TAX

Taxable under the Retailing classification in respect to the total charge for selling and installing when for consumers.

Taxable under the Wholesaling classification in respect to the total charge for selling and installing when for persons other than consumers.

Persons who manufacture articles in this state and install the same for customers in other states are taxable under the Manufacturing classification on the value (at the place of manufacture) of the article so installed.

Persons who manufacture articles outside this state and install the same for consumers in this state are taxable under the Retailing classification upon the total charge made therefor, irrespective of whether or not a segregation is made between the charge for the article manufactured and the charge for installing the same.

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WAC-458-20-
138 PERSONAL SERVICES RENDERED TO OTHERS

The term "personal services," as used herein, refers generally to the activity of rendering services as distinct from making sales of tangible personal property or of services which have been defined in the law as "sales" or "sales at retail". (See RCW 82.04.040 and 82.04.050.)

The following are illustrative of persons performing personal services which are within the scope of this rule: attorneys, doctors, dentists, architects, engineers, public accountants, public stenographers, barbers, beauty shop operators. (See also ~~Rule 224~~ WAC-458-20-224.)

BUSINESS AND OCCUPATION TAX

Persons engaged in the business of rendering personal services to others are taxable under the Service and Other Activities classification upon the gross income of such business.

There must be included within gross amounts reported for tax all fees for services rendered and all charges recovered for expenses incurred in connection therewith, such as transportation costs, hotel, restaurant, telephone and telegraph charges, etc.

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WAC-458-20- 139 TRADE SHOPS: PRINTING PLATE MAKERS, TYPESETTERS AND TRADE BINDERIES

(Note: This rule covers all the material previously included in ~~Rules 139 and 146.~~) WAC-458-20-139 and 146.)

The term "printing plate makers" includes, among others, photengravers, electrotypers, stereotypers, and lithographic plate makers.

BUSINESS AND OCCUPATION TAX

Printing plate makers, typesetters and trade binderies (referred to in the trade as "trade shops") are primarily engaged in the business of altering or improving tangible personal property owned by them for sale or altering or improving tangible personal property owned by their customers. In either case the gross proceeds (including the value of any property exchanged by the customer in kind) from sales of, or services rendered to, plates, mats, engravings, type, etc., which are delivered in this state are taxable under Retailing if the sale is to a "consumer" or Wholesaling-All Others if the sale is to one who will resell the property in the regular course of business without intervening "use". Neither of these classifications is applicable however, if the article sold is delivered to an out-of-state customer at an out-of-state point or if an article is produced for commercial or industrial use (See Rule 134). WAC-458-20-134). In these cases, tax is due under the Manufacturing classification on the "value of products."

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BUSINESS AND OCCUPATION TAX

RETAILING. The gross proceeds of all sales taxable under the retail sales tax are taxable under the Retailing classification.

WHOLESALE. Taxable under the Wholesaling classification upon the gross proceeds from sales for resale.

MANUFACTURING. Photofinishers who produce negatives, prints, or slides in Washington and who transfer or deliver such articles to points outside this state are subject to business tax under the Manufacturing classification upon the value of products (See WAC-458-20-112) and are not subject to tax under the Retailing or Wholesaling classification.

PROCESSING FOR HIRE. Photofinishers who develop film for others and who make delivery of the film to points outside the state are subject to business tax under the Manufacturing classification upon the total charge for the work done. It is immaterial that the customers are located outside the state or that the film was sent in from outside the state for processing.

SERVICE. Taxable under the Service and Other Activities classification upon gross income from sales to publishers of newspapers, magazines and other publications of the right to publish photographs.

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The phrase "duplicating industry" includes activities involving photostating, blueprinting, xeroxing, and other reproduction processes.

BUSINESS AND OCCUPATION TAX

Duplicators are taxable under the Retailing classification upon the gross proceeds received from sales of photostats, blueprints, copies, etc., to consumers, whether the tangible personal property on which the work is recorded is owned by the duplicator or customer.

The Wholesaling-All Others classification applies to sales for resale in the regular course of the purchaser's business.

Neither of these classifications is applicable, however, if the article sold is delivered to an out-of-state customer at an out-of-state point or if an article is produced for commercial or industrial use (See ~~Rule 134~~ WAC-458-20-134. In these cases tax is due under the Manufacturing classification on the "value of products".

Mailing bureaus mail material for the publishing industry and also mail folders, bulletins, form letters, advertising publications, flyers, and similar material for other customers. As part of these services, the bureaus also label, fold, enclose and seal. All of these activities come within the definition of "sale at retail" (RCW 82.04.050) as constituting "labor and services rendered in respect to ...the...altering, imprinting or improving of tangible personal property of or for consumers."

The gross proceeds received by mailing bureaus from charges made to consumers, whether such charges are itemized or lump sum, are taxable under the Retailing classification. The gross proceeds are taxable under the Wholesaling-All Other classification where charges (lump sum or itemized) are for tangible personal property resold as such to the purchaser or for services rendered to tangible personal property which becomes a component of an article for resale in the regular course of the purchaser's business.

Where a mailing bureau purchases stamps, government postals or stamped envelopes for a customer and the customer is charged therefor, the amount of the postage may be deducted from the measure of the business and occupation tax.

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BUSINESS AND OCCUPATION TAX

PRINTING AND PUBLISHING. Publishers of newspapers, magazines and periodicals are taxable under the Printing and Publishing classification upon the gross income derived from the publishing business.

Persons who both print and publish books, music, circulars, etc., or any other item, are likewise taxable under the Printing and Publishing classification. However, persons, other than publishers of newspapers, magazines or periodicals, who publish such things and do not print the same, are taxable under either the Wholesaling or Retailing classification, measured by gross sales, and taxable under the Service classification, measured by the gross income received from advertising.

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DEFINITION

The phrase "printing industry" includes letterpress, offset-lithography, and gravure processes as well as multigraph, mimeograph, autotyping, addressographing and similar activities.

BUSINESS AND OCCUPATION TAX

Printers are subject to the business and occupation tax under the Printing and Publishing classification upon the gross income of the business.

Where stamped envelopes or government postals are purchased and printed for customers or where stamps are provided, the amount of the postage may be deducted from the total charge to the customer in determining the selling price for business tax.

COMMISSIONS AND DISCOUNTS. There is a general trade practice in the printing industry of making allowances to advertising agencies of a certain percentage of the gross charge made for printed matter ordered by the agency either in its own name or in the name of the advertiser. This allowance may be a "commission" or may be a "discount."

A "commission" paid by a seller constitutes an expense of doing business and is not deductible from the measure of tax under business and occupation tax. On the other hand, a "discount" is a deduction from an established selling price allowed to buyers, and a bona fide discount is deductible.

In order that there may be a definite understanding, printers, advertising agencies and advertisers are advised that tax liability in such cases is as follows:

1. The allowance taken by an advertising agency will be deductible as a discount in the computation of the printer's liability only in the event that the printer bills the charge on a net basis; i.e., less the discount.
2. Where the printer bills the gross charge to the agency, no deduction will be allowed, irrespective of the fact that in payment of the account the printer actually receives from the agency the net amount only; i.e., the gross billing, less the commission retained by the agency. In all cases the commission received is taxable to the agency.

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BUSINESS AND OCCUPATION TAX

Effective March 1, 1970, the legislature repealed RCW 82.04.400 which exempted from the business and occupation tax the gross income of national banks, states banks, mutual savings banks, savings and loan associations and certain other financial institutions. Accordingly, the gross income or gross sales of such institutions shall become subject to the business and occupation tax according to the following general principles and chapter 458-20 20 WAC adopted by the Department of Revenue pursuant to RCW 82.14A.020.

SERVICES AND OTHER ACTIVITIES. Generally, the gross income from engaging in financial businesses is subject to the business and occupation tax under the classification Service and Other Activities. Following are examples of the types of income taxable under this classification: Interest earned (including interest on loans made to nonresidents unless the financial institution has a business location in the state of the borrower's residence which rendered the banking service), commissions earned, dividends earned, fees and carrying charges, charges for bookkeeping or data processing, safety deposit box rentals.

The term "gross income" is defined in the law as follows:

"Gross income of the business" means the value proceeding or accruing by reason of the transaction of the business engaged in and includes gross proceeds of sales, compensation for the rendition of services, gains realized from trading in stocks, bonds, or other evidences of indebtedness, interest, discount, rents, royalties, fees, commissions, dividends, and other emoluments however designated, all without any deduction on account of the cost of tangible property sold, the cost of materials used, labor costs, interest, discount, delivery costs, taxes, or any other expense whatsoever paid or accrued and without any deduction on account of losses.

The law allows certain deductions from gross income to arrive at the taxable amount (the amount upon which the business and occupation tax is computed). Deductible gross income should be included in the gross amount then deducted and explained on the form. The deductions generally applicable to financial businesses include the following:

1. Dividends received by a parent from its subsidiary corporation (RCW 82.04.430~~(1)~~) 4281).
2. Interest received on investments or loans primarily secured by first mortgages or trust deeds on nontransient residential properties. (See ~~Rule 166~~ WAC-458-20-166 for definition of "transient.") (RCW 82.04.430~~(1)~~) 4291).

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3. Interest received on obligations of the State of Washington, its political subdivisions, and municipal corporations organized pursuant to the laws thereof. (RCW 82.04.430(11)- 4292). A deduction may also be taken for interest received on direct obligations of the Federal government, but not for interest attributable to loans or other financial obligations on which the Federal government is merely a guarantor or insurer.

4. Gross proceeds from sales or rentals or real estate (RCW 82.04.390). These amounts may be entirely excluded from the gross income reported and need not be shown on the return as a deduction.

BRANCH LOCATIONS, DIVISION ON INCOME. Financial institutions having more than one place of business shall divide total taxable gross income so as to attribute taxable income to each location in the ratio of total interest earned (whether taxable or not) on loans originated at each location during the period covered by the tax return. The location at which a loan is originated is the place of business of the financial institution at which the customer deals with the financial institution to obtain the loan. Financial institutions having time or demand deposits may compute the ratio of total deposits at each location, provided the financial institution can demonstrate that the taxable income so computed will not differ by more than \$10,000 in any one calendar year as to any one business location.

RETAILING. Sales of tangible personal property and certain services are defined as "retail sales" and are subject to the business and occupation tax under the classification Retailing.

Following are example transactions subject to the Retailing classification of the business and occupation tax: Sales of meals or confections, sales of repossessed merchandise, sales of promotional material, leases of tangible personal property, sales of check registers, coin banks, personalized checks. (Note: When the financial institution is not the seller of these items but simply takes orders as agent for the supplier, the supplier is responsible for reporting as the retail seller.)

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BUSINESS AND OCCUPATION TAX

SERVICE AND OTHER BUSINESS ACTIVITIES. Public stenographers are taxable under the Service and Other Business Activities classification upon the gross income derived from the business of writing letters, corresponding or typing on a per hour or per page basis. (As to tax liability of public stenographers with respect to the business of mimeographing or other types of duplicating, other than typewriting, see ~~Rules 141 and 144.~~ WAC-458-20-141 and 144.)

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BUSINESS AND OCCUPATION TAX

Barber and beauty shops are subject to the business and occupation tax as follows:

RETAILING. Taxable under the Retailing classification upon charges for styling of wigs or hairpieces and upon the gross proceeds of sales of shoe shines and of packaged cosmetics, etc., sold apart from the rendition of personal services.

SERVICE AND OTHER BUSINESS ACTIVITIES. Taxable under the Service and Other Business Activities classification upon the gross income from charges for the rendition of personal services, such as hair cutting, shaving, shampooing, tinting, bleaching, setting and the like.

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BUSINESS AND OCCUPATION TAX

Jewelry repair shops are subject to the business and occupation tax, as follows:

RETAILING. Taxable under the Retailing classification upon the gross proceeds of sales from cleaning and repair services for consumers and from the sale of watches, clocks, etc.

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BUSINESS AND OCCUPATION TAX

RETAILING. Taxable under the Retailing classification upon gross proceeds of sales of eye glasses, regular or contact lenses, frames, springs, bows, etc., and upon charges made for the repair or replacement thereof. In case a lump sum or single charge is made to a customer or patient for an examination or refraction and the furnishing of glasses, the total charge so made must be included within the gross proceeds of sales.

SERVICE AND OTHER BUSINESS ACTIVITIES. Taxable under the Service and Other Business Activities classification upon the gross income from charges made for examinations and refractions and upon fees for fitting or adjustment of glasses or contact lenses when such charges are accounted for and billed separate and apart from the selling price of eye glasses or lenses to the patient.

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BUSINESS AND OCCUPATION TAX

Dentists, dental laboratories and physicians are subject to the business and occupation tax as follows:

SERVICE AND OTHER BUSINESS ACTIVITIES. Taxable under the Service and Other Business Activities classification upon the gross income from charges for the rendition of professional services.

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BUSINESS AND OCCUPATION TAX

Shoe repairmen and shoe shiners are subject to the business and occupation tax as follows:

RETAILING. Taxable under Retailing classification upon the gross proceeds of sales from the rendition of services, and from sales of tangible personal property.

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Funeral directors commonly quote a lump sum price for a standard funeral service, which includes the furnishing of a casket, professional services, care of remains, funeral coach, floral car and the securing of permits.

BUSINESS AND OCCUPATION TAX

RETAILING. The gross proceeds derived from the sale of tangible personal property are amount is taxable under the Retailing classification of the business and occupation tax except that there may be deducted, for purposes of the business tax only, amounts received as reimbursement for expenditures for goods or services supplied by others who are not persons employed by, affiliated, or associated with the funeral home, when such amounts were advanced by the funeral home as an accommodation to the person paying for a funeral; but this deduction is allowed only if such expenditures advanced are billed to the person paying for the funeral at the exact amount of the expenditure advanced and such amounts are separately itemized in the billing statement to such person.

SERVICE AND OTHER BUSINESS ACTIVITIES. That portion of the gross income derived from engaging in business as a funeral director which is not taxable under the Retailing classification is taxable as Service and Other Business Activities.

DEDUCTION. A deduction from the business and occupation tax is allowed to that portion of amounts received by any funeral home licensed to do business in this state which is received as reimbursements for expenditures (for goods supplied or services rendered by a person not employed by or affiliated or associated with the funeral home) as an accommodation to the persons paying for a funeral, so long as such expenditures and advances are billed to the persons paying for the funeral at only the exact cost thereof and are separately itemized in the billing statement delivered to such persons.

BUSINESS AND OCCUPATION TAX

RETAILING. The gross proceeds derived from the sale of tangible personal property are taxable under the Retailing classification.

SERVICE AND OTHER BUSINESS ACTIVITIES. Income derived from rendition of interment services is taxable under the Service and Other Business Activities classification. Sales or transfers of plots, crypts, and niches for interment of human remains, irrespective of whether the document of transfer is called a deed or certificate of ownership, are charges for the right of interment, an interest similar to a license to use real estate, and the entire gross income therefrom is taxable under the Service and Other Activities classification without any deduction for amounts set aside to funds for perpetual care.

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Persons rendering accounting, data processing or computer services are taxable upon gross income under the Service and Other Business Activities classification.

The gross income of such businesses is the total of all fees received or charges made, including periodic service charges for audits or bookkeeping, without any deduction on account of expenses of any kind (including traveling expenses) or losses. Amounts paid regularly by clients to such persons are not salaries, but rather are fees for services analogous to retainer fees.

BUSINESS AND OCCUPATION TAX

Persons engaged in the production and sale of hatching eggs or poultry for use in the production for sale of poultry or poultry products are not subject to the business and occupation tax upon the gross proceeds from such sales (RCW 82.04.410). Persons engaged in the production and sale for resale of hatching eggs or poultry are also exempt from the business and occupation tax in respect to such sales (RCW 82.04.330). The business and occupation tax is applicable to all sales of poultry or poultry products by persons other than the producer thereof.

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The word "florist" means a person engaged in the business of selling flowers and ornamental trees, shrubs or vines from an established business location, or one who peddles the same.

The word "nurseryman" means a person who grows, propagates or produces for sale upon his own lands or upon land in which he has a present right of possession, any flowers, trees, shrubs or vines.

BUSINESS AND OCCUPATION TAX

RETAILING. Florists and nurserymen are taxable under the Retailing classification upon gross sales made by them to consumers.

WHOLESALE. Florists are taxable under the Wholesaling classification upon gross sales for resale of articles which were not produced by them as nurserymen. Nurserymen are exempt from business tax with respect to sales at wholesale of articles produced by them in this state, but this exemption does not extend to the taking, cultivating, or raising of Christmas trees or timber.

WAC-458-20- PERSONS BUYING OR PRODUCING WHEAT, OATS, CORN, BARLEY AND RYE AND
161 MAKING SALES THEREOF

BUSINESS AND OCCUPATION TAX

RETAILING. Taxable under the Retailing classification upon the gross proceeds from all retail sales of such products.

WHOLESALE. Persons buying manufactured or processed ~~products of~~ wheat, oats, corn, barley and rye, and selling the same at whole-sale, are taxable under the Wholesaling classification upon their gross proceeds of sales. The tax imposed under this classification does not apply to persons producing wheat, oats, corn, barley and rye and selling the same at wholesale.

WHEAT, OATS, CORN, BARLEY AND RYE. Persons buying wheat, oats, corn, barley and rye, and selling the same at wholesale as such and not as a manufactured or processed product thereof, are taxable under the *Wheat, Oats, Corn, Barley and Rye* classification upon their gross proceeds of sales.

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With respect to stockbrokers and security houses, "gross income of the business" means the total of gross income from interest, gross income from commissions, gross income from trading and gross income from all other sources: PROVIDED, That:

1. Gross income from each account is to be computed separately and on a monthly basis;
2. Loss sustained upon any earnings account may not be deducted from or offset against gross income upon any other account, nor may be a loss sustained upon any earnings account during any month be deducted from the gross income upon any account for any other month;
3. No deductions are allowed on account of salaries or commissions paid to employees or salesmen, rent, or any other overhead or operating expenses paid or incurred, or on account of losses other than under "2" above;
4. No deductions are allowed from commissions received from sales of securities which are delivered to buyers outside the State of Washington.

GROSS INCOME FROM INTEREST. Gross income from interest includes all interest received upon bonds or other securities held for sale or otherwise, excepting only direct obligations of the Federal government and of the State of Washington. No deduction is allowed for interest paid out even though such interest may have been paid to banks, clearing houses or others upon amounts borrowed to carry debit balances of customers' margin accounts.

Interest accrued upon bonds or other securities sold shall be included in gross income where such interest is carried in an interest account and not as part of the selling price. Conversely, interest accrued upon bonds or other securities at the time of purchase may be deducted from gross income where such interest is carried in an interest account and not as a part of the purchase price.

GROSS INCOME FROM COMMISSIONS. Gross income from commissions is the amount received as commissions upon transactions for the accounts of customers over and above the amount paid to other established security houses associated in such transactions. PROVIDED, HOWEVER, That no deduction or offset is allowed on account of salaries or commissions paid to salesmen or other employees.

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GROSS INCOME FROM TRADING. Gross income from trading is the amount received from the sale of stocks, bonds and other securities over and above the cost or purchase price of such stocks, bonds and other securities. In the case of short sales gross earnings shall be reported in the month during which the transaction is closed, that is, when the purchase is made to cover such sales or the short sale contract is forfeited.

GROSS INCOME FROM ALL OTHER SOURCES. Gross income from all other sources includes all income received by the taxpayer, other than from interest, commissions and trading, such as dividends upon stocks, fees for examinations, fees for reorganizations, etc.

SERVICES ~~WITHIN~~ INSIDE AND ~~WITHOUT~~ OUTSIDE THE STATE-APPORTIONMENT. Stockbrokers and security houses rendering services and maintaining places of business both ~~within~~ inside and ~~without~~ outside the state may, in computing tax, apportion to this state that portion of the gross income which is derived from services rendered ~~within~~ or activities conducted inside this state. Where such apportionment cannot be made accurately by separate accounting methods, the taxpayer shall apportion to this state that portion of his total income which the cost of doing business ~~within~~ inside the state bears to the total cost of doing business both ~~within~~ inside and ~~without~~ outside the state.

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The words "broker," and "solicitor," as used herein mean respectively, a person licensed as such under the provisions of Chapter 48.17 RCW.

BUSINESS AND OCCUPATION TAX

Every person acting in the capacity of broker or solicitor is presumed to be engaging in business and is taxable under the Service and Other Business Activities classification upon the gross income of the business unless such person is a bona fide employee. The burden is upon such person to establish the fact of his status as an employee. (See ~~Rule 105~~ WAC-458-20-105-Employees.) Gross income of the business is determined by the amount of gross commissions received or retained, not by the gross premiums paid by the insured.

The term "gross income of the business" includes gross income from commissions, fees or other emoluments however designated which the broker or solicitor receives or becomes entitled to receive but does not include amounts held in trust for the insurer or the client. (See also ~~Rule 111~~ WAC-458-20-111-Advances and Reimbursements.)

No deduction is allowed for commissions, fees, or salaries paid to other brokers or solicitors nor for other expenses of doing business.

Where an insurance association, licensed as a broker or solicitor negotiates with a public body for the placement of its insurance coverage and arranges for the servicing of such insurance through a broker or solicitor and there is an agreement between the association and the broker or solicitor and the prospective insured that the commission on the policy premium will be shared, the entity receiving the commission need only include in gross income its share of the commission. It need not include in gross income the portion of commission earned by the other broker and/or solicitor nor need the other broker and/or solicitor include in gross income the portion retained by the entity which first receives payment.

(For tax liability of insurance adjusters, see ~~Rule 212~~ WAC-458-20-212.)

LAUNDRIES, DRY CLEANERS, LAUNDRY AGENTS, SELF SERVICE LAUNDRIES AND
DRY CLEANERS

The term "laundry or dry cleaning business" applies to (1) the business of operating a plant or establishment for laundering, cleaning, dyeing, pressing and incidentally repairing such articles as clothing, linens, bedding, towels, curtains, drapes, rugs, etc.; (2) so-called "launderettes," "washettes," "cleanettes" or similar self service businesses wherein laundry or dry cleaning facilities are provided for hire; it includes the operation of both coin and noncoin operated equipment, and (3) one who, under his own name, operates a place of business or pickup and delivery system for the collection and distribution of such articles, holding himself out to the public as performing such services, even though such person owns no plant and contracts with another for a part or all of the services rendered. This does not apply, however, to a person holding himself out as an agent for a particular laundry or dry cleaning plant.

The term "laundry agent" applies to any person who, under his own name, operates a place of business or pickup and delivery system for the collection and distribution of articles to be laundered, cleaned, dyed or pressed, holding himself out as agent for some particular establishment and acting as an independent contractor rather than as an employee.

The term "laundry or linen supply service" means the business of contracting to provide customers with a supply of clean linen, uniforms, towels, etc., whether ownership of such property is in the person operating the laundry or linen supply service or in the customer. Such service may include the providing of cabinets and other toilet equipment, paper towels, soap and similar consumable supplies.

BUSINESS AND OCCUPATION TAX

RETAILING. Persons operating laundry or dry cleaning businesses, including self service or coin operated laundry or dry cleaning businesses, but not including coin operated laundry facilities when such facilities are situated in an apartment house, hotel, motel, rooming house or trailer camp for the exclusive use of the tenants, are taxable under the Retailing classification upon the gross proceeds of sales without any deduction on account of commissions allowed or amounts paid to another for the performance of all or part of the laundry or dry cleaning service rendered.

Persons operating self service or coin operated laundries or dry cleaning businesses are taxable under the Retailing classification upon the gross proceeds of sales of starch, soap, blueing or any other article sold to customers.

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Laundries in Washington which provide linen supply services are making retail sales in this state even though their customers may be located outside this state. Gross income from such services is subject to tax because the charge is for laundering which takes place in this state, rather than being a true rental of property (uniforms, linen, etc.) to nonresidents.

WHOLESALEING. Tax is due under the Wholesaling classification upon the gross proceeds of sales derived from laundry or dry cleaning services rendered for other laundry and dry cleaning establishments.

SERVICE AND OTHER ACTIVITIES. Persons operating coin operated laundry facilities which are situated in an apartment house, hotel, motel, rooming house or trailer camp for the exclusive use of the tenants are taxable under Service and Other Activities on the gross income from such facilities. Laundry agents are taxable under this classification upon the gross commissions received by them. Nonprofit associations composed exclusively of nonprofit hospitals are taxable under the Service and Other Activities classification upon laundry services to such members.

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HOTELS, MOTELS, BOARDING HOUSES, ROOMING HOUSES, RESORTS, SUMMER CAMPS, TRAILER CAMPS, ETC.

A hotel, motel, boarding house, rooming house, apartment hotel, resort lodge, auto or tourist camp, and bunkhouse, as used in this ruling, includes all establishments which are held out to the public as an inn, hotel, public lodging house, or place where sleeping accommodations may be obtained, whether with or without meals or facilities for preparing the same. The foregoing does not include establishments in the business of renting real estate, such as apartments, nor does it include hospitals, sanitariums, nursing homes, rest homes, and similar institutions. Further, the foregoing does not include private lodging houses, dormitories, bunkhouses, etc., operated by or on behalf of business and industrial firms solely for the accommodation of employees of such firms, and which are not held out to the public as a place where sleeping accommodations may be obtained. The terms do not include guest ranches or summer camps which, in addition to supplying meals and lodging, offer special recreation facilities and instruction in sports, boating, riding, outdoor living, etc.

A boarding house, as used in this ruling, is an establishment selling meals on the average to five or more persons, exclusive of members of the immediate family. Where meals are furnished to less than five persons, exclusive of members of the immediate family, the establishment will not be considered as engaging in the business of operating a boarding house.

A trailer camp as used in this ruling, is an establishment making a charge for the rental of space to transients for locating or parking house trailers, campers, mobile homes, tents and the like which provide sleeping or living accommodations for the occupants. Additional charges for utility services will be deemed part of the charge made for the rental.

It will be presumed that the above establishments are conferring a license to use real estate, as distinguished from a rental of real estate, where the occupant is a transient. Conversely, where the occupant who receives lodging is or has become a nontransient, it will be conclusively presumed that the occupancy is under a rental or lease of real property.

Where lodging is furnished a transient, as that term is hereinafter defined, the charge therefor is subject to the business and occupation tax under the Retailing classification. Where the lodging is furnished a nontransient, the transaction is deemed a rental of real estate and is exempt from tax.

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The term "transient" as used in this rule means: Any guest, resident, or other occupant to whom lodging and other services are furnished under a license to use real property and who does not continuously occupy the premises for a period of one month. Where such occupant remains in continuous occupancy for more than one month, he shall be deemed a transient as to his first month of occupancy, unless he has contracted in advance to remain one month. In cases where such person has so contracted in advance and does so remain in continuous occupancy for one month, he will be deemed a nontransient from the start of his occupancy.

The tax liability of hotels, motels, boarding houses, rooming houses, resorts, summer camps, trailer camps, etc., is as follows:

BUSINESS AND OCCUPATION TAX

RETAILING. Amounts derived from the charge made to transients for the furnishing of lodging; charges for such services as the rental of radio and television sets and the rental of rooms, space and facilities not for lodging, such as ballrooms, display rooms, meeting rooms, etc., and including automobile parking or storage; also amounts derived from the sale of tangible personal property at retail are taxable under this classification.

SERVICE AND OTHER BUSINESS ACTIVITIES. Taxable under this classification are amounts derived from the rental of sleeping accommodations by private lodging houses, and by dormitories, bunkhouses, etc., operated by or on behalf of business and industrial firms and which are not held out to the public as a place where sleeping accommodations may be obtained; commissions received from acting as laundry agent for guests (see ~~Rule 165~~ WAC-458-20-165) and commissions received for the use of telephone facilities. Summer camps, guest ranches and similar establishments making an unsegregated charge for meals, lodging, instruction and the use of recreational facilities must report the gross income from such charges under this classification. This classification is also applicable to gross income from charges for the use of coin operated laundry facilities when such facilities are situated in an apartment house, hotel, motel, rooming house or trailer camp for the exclusive use of the tenants. (See ~~Rule 165~~ WAC-458-20-165 for information regarding the tax liability of laundry services generally.

Charges for lodging and related services described above are subject to tax even though they may be denominated or characterized as membership fees or dues.

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WAC-458-20-
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PRIVATE SCHOOLS

As used herein: An "educational institution" means only those institutions defined as such in ~~Rule 114~~ WAC-458-20-114; the term "private school" means all schools which are excluded from said definition.

BUSINESS AND OCCUPATION TAX

Persons operating private schools are taxable under the Service and Other Business Activities classification upon gross income derived from tuition fees, rental of rooms and equipment and other service income.

Such persons are also taxable under the Retailing classification upon gross retail sales of articles of tangible personal property sold by them, when the charge therefor is specified and is not included within the charge made for tuition.

Educational institutions, school districts and student organizations are not subject to the business and occupation tax with respect to activities directly connected with the educational program, such as operation of common dining room, sale of lab supplies etc.

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The term "hospital" means only institutions defined as hospitals in Chapter 70.41 RCW. The term "nursing home" means only institutions defined as nursing homes in Chapter 81.51 RCW.

BUSINESS AND OCCUPATION TAX

The gross income of hospitals for medical services is subject to business and occupation tax under the Service and Other Activities classification. The Retailing business and occupation tax applies to sales of ~~drugs, medicines, eye glasses, lenses, devices, orthopedic appliances and similar articles, when tangible personal property sold and billed and accounted for separately from hospital services rendered.~~

In computing business tax liability of hospitals, there may be deducted from the measure of the tax the following:

1. Amounts derived as compensation for services rendered or to be rendered to patients or from sales of prescription drugs furnished as an integral part of services rendered to patients by a hospital as defined in Chapter 70.41 RCW when such hospital is operated by the United States of America or any of its instrumentalities or by the State of Washington or any of its political subdivisions.
2. Amounts derived as compensation for services rendered to patients or from sales of prescription drugs furnished as an integral part of services rendered to patients by a hospital as defined in Chapter 70.41 RCW when such hospital is operated as a nonprofit corporation but only if no part of the net earnings received by such an institution inures, directly or indirectly, to any person other than the institution entitled to deduction hereunder.

No deduction will be allowed under "2" above, unless written evidence be submitted to the Department of Revenue showing that the hospital building is entitled to exemptions from taxation under the property tax laws of this state.

In computing business tax liability of nursing homes and homes for unwed mothers there may be deducted from the measure of tax the following. Amounts derived as compensation for services rendered to patients by nursing homes and homes for unwed mothers operated as a religious organization but only if no part of the net earnings received by such nursing homes or homes for unwed mothers inures, directly or indirectly, to any person other than the institution entitled to deduction hereunder.

Persons operating hospitals, ~~nursing homes~~, convalescent homes, clinics, rest homes, health resorts and similar institutions which are not operated as above provided are taxable under the classification Service and Other Activities upon the gross income received from personal or professional services.

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WAC-458-20-168 (Cont'd) In computing tax liability there may be deducted from gross income so much thereof as was derived from bona fide contributions, donations and endowment funds. (See ~~Rule 114~~ WAC-458-20-114.)

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RELIGIOUS, CHARITABLE, BENEVOLENT, NONPROFIT SERVICE
ORGANIZATIONS, AND SHELTERED WORKSHOPS

Religious, charitable, benevolent, and nonprofit service organizations are subject to the excise taxes imposed by the Revenue Act of 1935 with the following exceptions only:

Religious, charitable, benevolent, and nonprofit service organizations serving meals for fund raising purposes are not engaged in the business of making sales at retail and are not required to pay the business and occupation tax, unless such meals are served more frequently than once every two weeks. Religious, charitable, benevolent, and nonprofit service organizations conducting bazaars or rummage sales who are not generally engaged in the business of making sales at retail ~~and~~ are not required to pay the business and occupation tax where such bazaars or rummage sales are conducted no more than twice per year intermittently and do not extend over a period of more than two days each, if the gross receipts from each such bazaar or rummage sale is \$1,000 or less. Similarly, when such organizations make retail sales in the course of annual fund-raising drives, or make such sales through concessions operated intermittently and for short periods of time for the support of various benevolent, athletic, recreational, or cultural programs, the business and occupation tax need not be accounted for.

In every case where such organizations conduct business activities other than as outlined above, the business and occupation tax is fully applicable to the gross sales made.

SHELTERED WORKSHOPS. The gross income received by nonprofit organizations from the operation of "Sheltered workshops" is exempt from the Business and Occupation tax. "Sheltered workshops" is defined by the law to mean "rehabilitation facilities, or that part of rehabilitation facilities, where any manufacture or handiwork is carried on and which is operated for the primary purpose of (1) providing gainful employment or rehabilitation services to the handicapped as an interim step in the rehabilitation process for those who cannot be readily absorbed in the competitive labor market or during such time as employment opportunities for them in the competitive labor market do not exist; or (2) providing evaluation and work adjustment services for handicapped individuals."

HEALTH OR SOCIAL WELFARE SERVICES. In computing business tax there may be deducted amounts received from the United States or any instrumentality thereof or from the state of Washington or any municipal corporation or political subdivision thereof as compensation for, or to support, health or social welfare services rendered by a health or social welfare organization or by a municipal corporation or political subdivision.

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The term "health or social welfare organization" means an organization which renders health or social welfare services as defined below, which is a not-for-profit corporation under Chapter 24.03 RCW and which is managed by a governing board of not less than eight individuals none of whom is a paid employee of the organization or which is a corporation sole under Chapter 24.12 RCW. In addition a corporation in order to be exempt under RCW 82.04 .4297 shall satisfy the following conditions:

- (a) No part of its income may be paid directly or indirectly to its members, stockholders, officers, directors or trustees except in the form of services rendered by the corporation in accordance with its purposes and bylaws;
- (b) Salary or compensation paid to its officers and executives must be only for actual services rendered, and at levels comparable to the salary or compensation of like positions within the public service of the state;
- (c) Assets of the corporation must be irrevocably dedicated to the activities for which the exemption is granted and, on the liquidation, dissolution, or abandonment by the corporation, may not inure directly or indirectly to the benefit of any member or individual except a nonprofit organization, association, or corporation which also would be entitled to the exemption;
- (d) The corporation must be duly licensed or certified where licensing or certification is required by law or regulation;
- (e) The amounts received qualifying for exemption must be used for the activities for which the exemption is granted;
- (f) Services must be available regardless of race, color, national origin, or ancestry; and
- (g) The director of revenue shall have access to its books in order to determine whether the corporation is entitled to this exemption.

The term "health or social welfare services" includes and is limited to:

- (a) Mental health, drug, or alcoholism counseling or treatment;
- (b) Family counseling;
- (c) Health care services;
- (d) Therapeutic, diagnostic, rehabilitative, or restorative services for the care of the sick, aged, or physically, developmentally, or emotionally-disabled individuals;
- (e) Activities which are for the purpose of preventing or ameliorating juvenile delinquency or child abuse, including recreational activities for those purposes;
- (f) Care of orphans or foster children;
- (g) Day care of children;
- (h) Employment development, training and placement; and
- (i) Legal services to the indigent.

CONSTRUCTING AND REPAIRING OF NEW OR EXISTING BUILDINGS OR OTHER
STRUCTURES UPON REAL PROPERTY

DEFINITIONS

As used herein: The term "private contractor" means a person engaged in business of performing for consumers, ~~contracts for~~ the constructing, repairing, decorating or improving of new or existing buildings or other structures under, upon or above real property, either for the entire work or for a specific portion thereof. The term includes persons who rent or lease equipment to property owners for use in respect to constructing, repairing, etc., buildings or structures upon such property, when the equipment is operated by the lessor.

The word "subcontractor" means a person engaged in the business of performing a similar service for persons other than consumers, either for the entire work or for a specific portion thereof. The term includes persons who rent or lease equipment to prime contractors or subcontractors for use in respect to constructing, repairing, etc., when such equipment is operated by the lessor. When equipment or other tangible personal property is rented without an operator to contractors, subcontractors or others, the transaction is a sale at retail. (see RCW 82.04.040 and 82.04.050).

The terms "prime contractor" and "subcontractor" include persons performing labor and services in respect to the moving of earth or clearing of land, cleaning, fumigating, razing, or moving of existing buildings or structures even though such services may not be done in connection with a contract involving the constructing, repairing, or altering of a new or existing building or structure. The terms also include persons constructing streets, roads, highways, etc., owned by the state of Washington.

The term "buildings or other structures" means everything artificially built up or composed of parts joined together in some definite manner and attached to real property. It includes not only buildings in the general and ordinary sense, but also tanks, fences, conduits, culverts, railroad tracks, tunnels, overhead and underground transmission systems, monuments, retaining walls, piling and privately owned bridges, trestles, parking lots, and pavements for foot or vehicular traffic, etc.

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The term "constructing, repairing, decorating or improving of new or existing buildings or other structures," in addition to its ordinary meaning, includes the installing or attaching of any article of tangible personal property in or to real property, whether or not such personal property becomes a part of the realty by virtue of installation, the clearing of land and the moving of earth, and the construction of streets, roads, highways, etc., owned by the state of Washington. The term includes the sale of or charge made for all service activities rendered in respect to such constructing, repairing, etc., regardless of whether or not such services are otherwise defined as "sale" by RCW 82.04.040 or "sales at retail" by RCW 82.04.050. Hence, for example, such service charges as engineering fees, architectural fees or supervisory fees are within the term when the services are included within a contract for the construction of a building or structure.

The fact that the charge for such services may be shown separately in bid, contract or specifications does not establish the charge as a separate item in computing tax liability.

SPECULATIVE BUILDERS. As used herein, the term "speculative builder" means one who constructs buildings for sale or rental upon real estate owned by him. The attributes of ownership of real estate for purposes of this rule include but are not limited to the following: 1. The intentions of the parties in the transaction under which the land was acquired; 2. the person who paid for the land; 3. the person who paid for improvements to the land; 4. the manner in which all parties, including financiers, dealt with the land. and The terms "sells" or "contracts to sell" include any agreement whereby an immediate right to possession or title to the property vests in the purchaser.

Amounts derived from the sale of real estate are exempt from the business and occupation tax. (RCW 82.04.390). Consequently, the proceeds of sales by speculative builders of completed buildings are not subject to such tax.

However, when a speculative builder sells or contracts to sell property upon which he is presently constructing a building, all construction done subsequent to the date of such sale or contract constitutes a retail sale and that portion of the sales price allocable to construction done after the agreement shall be taxed accordingly. Consequently, the builder must pay business and occupation tax under the Retailing classification on that part of the sales price attributable to construction done subsequent to the agreement.

Persons, including corporations, partnerships, sole proprietorships, and joint ventures, among others who perform construction upon land owned by their corporate officers, shareholders, partners, owners, co-venturers, etc., are constructing upon land owned by others and are taxable as sellers under this rule, not as "speculative builders."

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BUSINESS AND OCCUPATION TAX

(Cont'd)

Prime contractors are taxable under the Retailing classification, and subcontractors under the Wholesaling classification upon the gross contract price.

Where no gross contract price is stated in any contract or agreement between the builder and the property owner, then the measure of business and occupation tax is the total amount of construction costs, including any charges for licenses, fees, permits, etc., required for the construction and paid by the builder.

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BUILDING, REPAIRING OR IMPROVING STREETS, ROADS, ETC., WHICH ARE OWNED BY A MUNICIPAL CORPORATION OR POLITICAL SUBDIVISION OF THE STATE OR BY THE UNITED STATES AND WHICH ARE USED PRIMARILY FOR FOOT OR VEHICULAR TRAFFIC

DEFINITIONS

As used herein: The word "contractor" means a person engaged in the business of building, repairing or improving any street, place, road, highway, easement, right of way, mass public transportation terminal or parking facility, bridge, tunnel, or trestle which is owned by a municipal corporation or political subdivision of the state or by the United States and which is used or to be used primarily for foot or vehicular traffic, either as a prime contractor or as a subcontractor. It does not include persons who merely sell or deliver road materials to such contractors or to the public authority whose property is being improved. It also does not include persons who construct streets, roads, etc. owned by the state of Washington. (See ~~Rule 170~~ WAC-458-20-170 for the tax liability of such persons.)

The term "street, place, road, highway, etc." is used in the ordinary sense that the combination of such words implies. It includes docks used primarily by ferry boats operated in connection with a street, road or highway, but does not include railroads, wharves, moorings, hallways, catwalks, or runways, aprons or taxiways for the landing, take-off or movement of airplanes within airports or landing fields; nor does it include ferry boats, even though the ferry be operated in connection with a street, road or highway. It includes roads and walks which are not open to the public generally, but which may be restricted to use by the military or by employees of a department or instrumentality of the United States.

The word "place" means only an area similar to a street or pedestrian walk, such as thoroughfares in various cities designated "places" for the purpose of preserving the continuity of street names or house numbers; generally, a street of shorter length than others.

The term "building, repairing or improving of a publicly owned street, place, road, etc." includes clearing, grading, graveling, oiling, paving and the cleaning thereof; the constructing of tunnels, guard rails, fences, walks and drainage facilities, the planting of trees, shrubs and flowers therein, the placing of street and road signs, the striping of roadways, and the painting of bridges and trestles; it also includes the mining, sorting, crushing, screening, washing and hauling of sand, gravel, and rock taken from a public pit or quarry. It also includes the constructing of road and street lighting systems, even though portions of such systems also are used for purposes other than street and road lighting; also the constructing of a drainage system in streets and roads, even though such system is also used for the carrying of sewage:

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PROVIDED, That the drainage facilities are sufficient for disposal of the normal runoff of surface waters from the particular streets and roads in which the system is constructed or an ordinance authorizing the construction of a combined sewer system is incorporated by reference in the contract and the contract or specifications clearly indicate that the system is designed and intended for the disposal of the normal runoff of surface waters from the streets and roads in which the system is constructed.

The term includes any contract for the readjustment, reconstruction or relocation of the facilities of any public, private or cooperatively owned utility or railroad in the course of building, repairing or improving a street, place, road, etc., which is owned by a municipal corporation or political subdivision of the state or by the United States, the cost of which readjustment, reconstruction, or relocation is the responsibility of the public authority whose street, place, road, etc., is being built, repaired or improved. It also includes building or repairing mass transportation facilities owned by a municipal corporation or political subdivision of the state or by the United States.

Except as provided above, the term does not include the constructing of water mains, telephone, telegraph, electrical power, or other conduits or lines in or above streets or roads, unless such power lines become a part of a street or road lighting system as aforesaid; nor does it include the constructing of sewage disposal facilities, nor the installing of sewer pipes for sanitation, unless the installation thereof is within, and a part of, a street or road drainage system.

BUSINESS AND OCCUPATION TAX

Such contractors are taxable upon their total contract price.

The business and occupation tax does not apply to the cost of or charge made for labor and services performed in respect to the mining, sorting, crushing, screening, washing, hauling, and stockpiling of sand, gravel, and rock, when such sand, gravel, or rock is taken from a pit or quarry which is owned by or leased to a county or city and such sand, gravel or rock is:

- a. stockpiled in said pit or quarry for placement on the street, road, or highway by the county or city itself using its own employees, or
- b. placed on the street, road, or highway by the county or city itself using its own employees, or
- c. sold by the county or city at actual cost to another county or city for road use.

Persons engaged in performing well drilling, contracts for the grading or clearing of land or the moving of earth, and which do not involve the building, repairing or improving of any streets, roads, etc. which are owned by a municipal corporation or political subdivisions of the state or by the United States (See ~~Rule 171~~ WAC-458-20-171); and persons engaged in performing contracts which involve the cleaning, fumigating, razing or moving of existing buildings or structures and persons performing janitorial services are taxable as follows:

BUSINESS AND OCCUPATION TAX

Taxable under the classification Retailing upon gross income from contracts to perform such services for consumers, but excluding gross income from contracts providing solely for the performance of janitorial services the mere core drilling of or testing of soil samples, or the mere leveling of land for agricultural purposes.

Taxable under the classification Wholesaling-All Others upon gross income from subcontracts to perform such services for resale.

Taxable under the classification Service and Other Activities upon gross income from contracts to perform janitorial services the mere core drilling of or testing of soil samples, or the mere leveling of land for agricultural purposes.

The term "janitorial services" includes activities performed regularly and normally by commercial janitor service businesses. Generally, these activities include the washing of interior and exterior window surfaces, floor cleaning and waxing, the cleaning of interior walls and woodwork, the cleaning in place of rugs, drapes and upholstery, dusting, disposal of trash, and cleaning and sanitizing bathroom fixtures. The term "janitorial services" does not include, among others, cleaning the exterior walls of buildings, the cleaning of septic tanks, special cleanup jobs required by construction, fires, floods, etc., painting, papering, repairing, furnace or chimney cleaning, snow removal, sandblasting, or the cleaning of plant or industrial machinery or fixtures.

BUSINESS AND OCCUPATION TAX

RETAILING. Persons installing, cleaning, decorating, beautifying, repairing or otherwise altering or improving tangible personal property of consumers or for consumers are taxable under the Retailing classification upon the gross proceeds received from sales of tangible personal property and the rendition of services.

WHOLESALEING. Persons who sell tangible personal property to, or render any of the above services for others than consumers, are taxable under the Wholesaling classification upon the gross proceeds of sales received therefrom.

There must be included within gross amounts reported for tax all fees for services rendered and all charges recovered for expenses incurred in connection therewith, such as transportation cost, hotel, restaurant, telephone and telegraph charges, etc.

REPAIRS FOR OUT-OF-STATE PERSONS. Persons residing outside this state may ship into this state articles of tangible personal property for the purpose of having the same repaired, cleaned or otherwise altered, and thereafter returned to them. No deduction is allowed as an interstate sale under the business and occupation tax.

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WAC-458-20-174 SALES TO MOTOR CARRIERS OPERATING IN INTERSTATE OR FOREIGN COMMERCE
OF MOTOR VEHICLES, TRAILERS, PARTS, ETC.

BUSINESS AND OCCUPATION TAX

In computing tax liability under the Retailing classification, persons engaged in the business of selling motor vehicles, trailers, parts and accessories, and persons engaged in the business of installing, cleaning, repairing or otherwise altering or improving such vehicles or parts are not permitted any deduction by reason of the fact that such sales or services are made to or for persons for use in conducting interstate or foreign commerce. Insofar as concerns the tax liability of vendors of such property or services it is immaterial that the purchaser may be entitled to a statutory exemption from payment of the retail sales tax.

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PERSONS ENGAGED IN THE BUSINESS OF OPERATING AS A PRIVATE OR COMMON CARRIER BY AIR, RAIL OR WATER IN INTERSTATE OR FOREIGN COMMERCE

The term "private carrier" means every carrier, other than a common carrier, engaged in the business of transporting persons or property for hire.

The term "watercraft" includes every type of floating equipment which is designed for the purpose of carrying therein or therewith persons or cargo. It includes tow boats, but it does not include floating dry docks, dredges, or pile drivers, or any other similar equipment.

The term "carrier property" means airplanes, locomotives, railroad cars or watercraft, and component parts of the same.

The term "component part" includes all tangible personal property which is attached to and a part of carrier property. It also includes spare parts which are designed for ultimate attachment to carrier property. The said term does not include furnishings of any kind which are not attached to the carrier property nor does it include consumable supplies. For example, it does not include, among other things, bedding, linen, table and kitchen ware, tables, chairs, ice for icing perishables or refrigerator cars or cooling systems, fuel or lubricants.

"Such persons," and "such businesses" mean the persons and the businesses described in the title of this rule.

BUSINESS AND OCCUPATION TAX

Persons engaged in such businesses are not subject to business tax with respect to operating income received for transporting persons or property in interstate or foreign commerce.

When such persons also engage in intrastate business activities they become taxable at the rates and in the manner stated in ~~Rule-181~~ WAC-458-20-181. For example, such persons are taxable under the Retailing or Wholesaling business tax classification upon the gross proceeds of sales of tangible personal property, including sales of meals, when such sales are made within this state.

Persons selling tangible personal property to, or performing services for, others engaged in such businesses, are taxable to the same extent as they are taxable with respect to sales of property or services made to other persons in this state.

PERSONS ENGAGED IN THE BUSINESS OF CONDUCTING COMMERCIAL DEEP SEA
FISHING OPERATIONS OUTSIDE THE TERRITORIAL WATERS OF WASHINGTON

As used herein:

The terms "such persons" and "such businesses" mean the persons and businesses described in the title of this rule.

The terms do not include sport fishermen nor persons operating charter boats for sport fishing. (See ~~Rule 183~~ WAC-458-20-183 for tax liability of such persons.) Nor do the terms include persons who operate or purchase watercraft for kelping, purse seining, or gill netting, because such fishing methods can be legally engaged in only within the territorial waters of the state (the three-mile limit). Therefore, watercraft rigged for fishing by any of these methods will be deemed for use in other than commercial deep sea fishing.

The term "watercraft" means every type of floating equipment which is designed for the purpose of carrying therein or therewith fishing gear, fish catch or fishing crews, and used primarily in commercial deep sea fishing operations outside the territorial waters of the state of Washington.

The term "component part" includes all tangible personal property which is attached to and part of a watercraft. It includes dories, gurdies and accessories, bait tanks, baiting tables and turntables. It also includes spare parts which are designed for ultimate attachment to a watercraft. The said term does not include equipment or furnishings of any kind which are not attached to a watercraft, nor does it include consumable supplies. Thus it does not include, among other things, bedding, table and kitchen wares, fishing nets, hooks, lines, floats, hand tools, ice, fuel, or lubricants.

BUSINESS AND OCCUPATION TAX

Such persons are not taxable under the Extracting classification with respect to catches obtained outside the territorial waters of this state.

Such persons are taxable under either the Retailing or the Wholesaling classification with respect to sales made within this state, unless entitled to exemption by reason of the commerce clauses of the federal constitution.

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The scope of this rule is limited to sales by dealers in this state of motor vehicles , campers, and trailers to ~~to~~ nonresidents of the state for use outside the state.

~~2. Residents of this state for use in this state but who take delivery outside this state.~~

For the purposes of this rule, members of the armed services (but not including civilian military employees) who are temporarily stationed in the State of Washington pursuant to military orders will be presumed to be nonresidents unless such persons were residents of this state at the time of their induction: the term "vehicle" as used herein refers to motor vehicles, campers, and trailers.

BUSINESS AND OCCUPATION TAX

In computing the tax liability of persons engaged in the business of selling ~~motor vehicles and trailers~~ no deduction is allowed by reason of sales made to nonresidents for use outside this state but who take delivery in Washington, and irrespective of the fact that such buyers may be entitled to a statutory exemption from the retail sales tax.

A deduction from gross proceeds of sales will be allowed when, as a necessary incident of the contract of sale, the seller agrees to, and does, deliver the vehicle to the buyer at a point outside the state, or delivers the same to a common carrier consigned to the purchaser outside the state.

The foregoing deduction, however, will be allowed only when the seller has secured and retains in his files satisfactory proof:

- a. That under the terms of the sales agreement the seller was required to deliver the vehicle to the buyer at a point outside this state; and
- b. That such out-of-state delivery was actually made by the seller or by a common carrier acting as his agent.

WAC-458-20- VESSELS, INCLUDING LOG PATROLS, TUGS AND BARGES, OPERATING UPON
181 WATERS IN THE STATE OF WASHINGTON

BUSINESS AND OCCUPATION TAX

RETAILING OR WHOLESALING. Persons engaged in the business of operating such vessels and tugs are taxable under the Retailing or Wholesaling classification upon the gross sales of meals (including meals to employees) and other tangible personal property.

SERVICE AND OTHER BUSINESS ACTIVITIES. The business of operating lighters is a service business taxable under the Service and Other Business Activities classification upon the gross income from such service. Also taxable under this classification is gross income from operation of vessels to provide scenic cruises.

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The term "warehouse" means every structure wherein facilities are offered for the storage of tangible personal property.

The gross operating revenue of the business of a warehouse includes all income from the storing, handling, sorting, weighing or measuring of tangible personal property.

Where a grain warehouseman purchases or owns grain stored in such warehouse, there shall be included in gross operating revenue (a) an amount equal to the charges at the customary rate for all services rendered in connection with such grains up to the time of purchase by the warehouseman, and (b) the amount of any charges for services that are rendered during the period of the warehouseman's ownership thereof billed and stated, as such, separately from the price of the grains on the invoice to the purchaser at the time of the sale by the warehouseman.

BUSINESS AND OCCUPATION TAX

Persons engaged in the business of operating any type of warehouse and the renting of cold storage lockers are taxable under the Service and Other Activities classification upon the gross income received from such business.

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The term "sale at retail" is defined by RCW 82.04.050 to include certain amusement and recreation business. Those activities specifically included within the definition are golf, pool, billiards, skating, bowling, and ski lifts and tows. Thus, while the legislature has not defined the term "amusement and recreation business," it has indicated the type of businesses it intended to tax under this classification, i.e., recreation in which the payment is for participation. Accordingly, the language of this classification is construed to include the following additional amusement and recreation businesses: Archery, badminton, bowling shoes rentals, croquet and handball courts, operation of charter boats for sport fishing, golf cart rentals, dancing, golf driving ranges, miniature golf, private fishing, shuffleboard, swimming facilities, tennis facilities, trampolines.

BUSINESS AND OCCUPATION TAX

Gross receipts from the amusement and recreation businesses listed above are taxable under the classification Retailing.

Such persons are taxable under the Retailing classification upon gross receipts from sales of meals, drinks, tobacco or other property sold by them.

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As used herein: The term "vending machines" means machines which, through the insertion of a coin will return to the patron a predetermined specific article of merchandise or provide facilities for installing, repairing, cleaning, altering, imprinting, or improving of tangible personal property of or for consumers. It includes machines which vend photographs, toilet articles, cigarettes and confections as well as machines which provide laundry and cleaning services.

The term "amusement devices" means those devices and machines which, through the insertion of a coin, will permit the patron to play a game. It includes slot and pinball machines and those machines or devices which permit the patron to see, hear or read something of interest.

The term "service machines" means any coin operated machines other than those defined as "vending machines" or "amusement devices." It includes, for example, scales and luggage lockers, but does not include coin operated machines used in the conduct of a public utility business, such as telephones and gas meters; also excluded are shuffleboards and pool games.

VENDING MACHINES. Persons operating vending machines are engaged in a retailing or wholesaling business and must report and pay tax under the Retailing or Wholesaling classification with respect to the gross proceeds of sales.

AMUSEMENT DEVICES. Persons operating amusement devices, except shuffleboard, pool, and billiard games, are taxable under the Service and Other Business Activities classification on the gross receipts therefrom.

Persons engaged in operating shuffleboards or games of pool or billiards are taxable under the Retailing or Wholesaling classification on the gross receipts therefrom.

SERVICE MACHINES. Persons operating service machines are taxable under the Service and Other Business Activities classification upon the gross income received from the operation of such machines.

When coin-operated machines are placed at a location owned or operated by a person other than the owner of the machines, under any arrangement for compensation to the operator of the location, the person operating the location has granted a license to use real property and will be responsible for reporting and paying tax upon his gross compensation therefor under the Service classification.

Sales of vending machines, service machines and amusement devices to persons who will operate the same are sales at retail.

WAC-458-20- PREScription DRUGS, PROSTHETIC AND ORTHOTIC DEVICES, AND
18801 OSTOMIC ITEMS

BUSINESS AND OCCUPATION TAX

The business and occupation tax applies to all sales of drugs, medicines, prescription lenses, or other substances used for diagnosis, cure, mitigation, treatment, or prevention of disease or other ailment, except that the business tax does not apply to:

- a. Sales of prescription drugs furnished as an integral part of services rendered by a hospital or other entity which meets all the conditions for exemption for services generally under WAC-458-20-168; or
- b. Sales of prescription drugs furnished as an integral part of services rendered by a hospital as defined by Chapter 70.41 RCW, when such hospital is operated by the United States government, the state, or a political subdivision of the state.

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SALES TO THE STATE OF WASHINGTON, COUNTIES, CITIES, SCHOOL
DISTRICTS AND OTHER MUNICIPAL SUBDIVISIONS.

BUSINESS AND OCCUPATION TAX

No deduction is allowed a seller in computing tax under the provisions of the business and occupation tax with respect to sales to the State of Washington, its departments and institutions or to counties, cities, school districts or other municipal subdivisions thereof.

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